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Secure Families Initiative and Count
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** Pro Hac Vice Application Forthcoming*

ARIZONA SUPERIOR COURT

MARICOPA COUNTY

REPUBLICAN PARTY OF ARIZONA LLC.
An Arizona limited liability company and
political party committee; REPUBLICAN
NATIONAL COMMITTEE, a national political
party committee; and GINA SWOBODA, an
individual,

Plaintiffs,

v.

STATE OF ARIZONA, a body politic; and
ADRIAN FONTES, in his official capacity as
the Secretary of State of Arizona,

Defendants

No. CV2025-022859

**UNOPPOSED MOTION FOR
LEAVE TO FILE AMICI CURIAE
BRIEF OF SECURE FAMILIES
INITIATIVE AND COUNT EVERY
HERO**

(Assigned to Hon. Michael J. Herrod)

Secure Families Initiative (“SFI”) and Count Every Hero (“CEH”) respectfully
move, pursuant to this Court’s inherent authority, for leave to file a brief as *amici curiae*
(attached as **Exhibit 1**) in support of Defendants’ motion for summary judgment. *Amici*

1 seek to protect the right to vote of the United States citizen dependents of Arizona's
2 military and overseas voters. Movants conferred with the parties; Plaintiffs and the State
3 of Arizona consented, while Secretary Fontes took no position.

4 **I. Arizona trial courts have the authority to accept amicus briefs.**

5 "Courts have inherent power to do all things reasonably necessary for the
6 administration of justice," *Schavey v. Royston*, 8 Ariz. App. 574, 575 (1968), which
7 includes the power to accept amicus briefs at the trial court level. Indeed, the Superior
8 Court routinely accepts amicus briefs in cases of public interest, such as this one. *See e.g.*,
9 *Arizona Citizens Clean Elections Commission v. Fontes*, Nos. CV2025-064149, CV2025-
10 064362, CV2025-065841 (Consolidated) (Ariz. Super. Ct. Maricopa Cnty. Mar. 17, 2026)
11 (minute entry granting "Pinal County Board of Supervisors and Pinal County Recorder's
12 Motion for Leave to File Amici Curiae Brief"); *Petersen v. Fontes*, CV2024-001942 (Ariz.
13 Super. Ct. Maricopa Cnty. Mar. 3, 2024) (minute entry "granting Amici Curiae Democratic
14 National Committee and Arizona Democratic Party's *Motion to File an Amicus Brief*");
15 *Home Builders Ass'n of Cent. Arizona v. City of Apache Junction*, 198 Ariz. 493, 496 n.4
16 (App. 2000).

17 **II. Interests of the Amici**

18 Secure Families Initiative is a nonpartisan 501(c)(4) not-for-profit organization
19 composed of military spouses and family members. SFI is affiliated with the 501(c)(3)
20 organization, Secure Families Foundation. SFI's mission is to mobilize diverse military
21 partners, parents, children, and veterans to vote and advocate for their communities. SFI
22 advocates for federal and state policies that increase access to the right to vote for military-
23 affiliated and absentee voters and other voters at high risk of being disenfranchised. SFI
24 has participated as amicus curiae in numerous other cases in state and federal court,
25 advocating for interpretations of voting statutes that protect and advance the interests of
26 military-affiliated voters. *See, e.g.*, *Mi Familia Vota v. Fontes*, No. 24-3188 (9th Cir. 2024);
27 *Reschenthaler v. Schmidt*, No. 1:24-cv-01671-CCC (M.D. Pa. 2024); *Cobb Cnty. Bd. of*

1 *Elections v. State Election Bd.*, No. 24CV012491 (Ga. Super. Ct. Oct. 9, 2024); *Crawford*
2 *v. State Election Bd.*, No. 24CV012349 (Ga. Super. Ct. Oct. 15, 2024); *Dekalb Bd. of*
3 *Registration and Elections v. State Election Bd.*, No. 24CV9085 (Ga. Super. Ct. Oct. 9,
4 *2024); Eternal Vigilance Action v. State of Georgia*, No. 24CV011558 (Ga. Super. Ct.
5 *October 9, 2024); Griffin v North Carolina State Board of Elections*, No. 24CV040620-
6 *910 (N.C. Sup. Ct. 2024); Michigan Republican Party, et al., v. Benson*, No. 372995 (Mich.
7 *Ct. App. 2024).*

8 *Amicus* Count Every Hero is an unincorporated association of nine retired four-star
9 admirals and generals, and former secretaries of the Army, Navy, and Air Force: Admiral
10 Steve Abbot, U.S. Navy (Retired); Admiral Thad Allen, U.S. Coast Guard (Retired);
11 Former Secretary of the Army Louis Caldera; General George Casey, U.S. Army (Retired);
12 General Carlton W. Fulford, Jr., U.S. Marine Corps (Retired); Former Secretary of the Air
13 Force Deborah Lee James; General John Jumper, U.S. Air Force (Retired); General Craig
14 McKinley, U.S. Air Force (Retired); and Former Secretary of the Navy Sean O’Keefe.,
15 Through Count Every Hero, they are committed to protecting the voting rights of active-
16 duty U.S. service members, veterans, and their families, among other national security
17 issues of importance. In furtherance of that mission, Count Every Hero has participated as
18 *amicus curiae* in other cases to advance the need for a clear and orderly chain of command
19 and election administration procedures, particularly as they affect active-duty service
20 members. *See, e.g., Trump v. United States*, No. 23-939 (July 1, 2024); *Moore v. Harper*,
21 No. 21-1271 (June 27, 2023); *Griffin v North Carolina State Board of Elections*, No.
22 24CV040620-910 (NC Sup. Ct. 2024).

23 **III. Accepting the amicus brief will assist the Court.**

24 *Amici* represent military families—including Arizonans—across the country. The
25 proposed brief covers three topics: (1) the Arizona Constitution’s grant of broad authority
26 to the Legislature to define residency for voting purposes, including through the
27 recognition of derivative residency for dependents of overseas Arizonans; (2) how A.R.S.

1 § 16-103(E) furthers the purpose of the Uniformed and Overseas Citizens Absentee Voting
2 Act (“UOCAVA”); and (3) the extraordinary real-world barriers overseas Arizona voters
3 already face and the devastating consequences of further disenfranchising them. Because
4 neither party to the litigation represents military or overseas families, *Amici* bring a unique
5 perspective on these issues, particularly about how the relief requested by Plaintiffs would
6 harm and disenfranchise dependents of military and overseas Arizona voters.

7 SFI has endorsed federal legislation to standardize the ballot return deadline for
8 UOCAVA voters and require all 50 states to provide UOCAVA voters with a ballot curing
9 process. At the state level, SFI has consistently pushed for the expansion of ballot return
10 options for UOCAVA voters. Because voting remains less accessible for its members and
11 the broader military and overseas community, SFI also provides voter education—
12 including routinely publishing resources to assist its members and the broader military and
13 overseas community—and engages in non-partisan voter registration and “get-out-the-
14 vote” efforts directed at military voters in all elections.

15 Count Every Hero works to promote the understanding of the importance of a strong
16 democracy to our national security and to protect the voting rights of our active-duty
17 service members, veterans, and their families. County Every Hero also promotes civic
18 literacy and civic participation. During past election cycles, they have raised public
19 awareness about the myriad challenges facing military voters and their families. In 2020,
20 Count Every Hero published a report reviewing all 50 states’ standards for military ballots
21 and advocated for the importance of counting these ballots.

22 SFI and CEH are therefore well-positioned to assist the Court with their firsthand
23 knowledge of the barriers facing military and overseas voters and their dependents, their
24 analysis of UOCAVA and its interaction with state law, and their perspective on the
25 constitutional authority the Legislature exercised in enacting A.R.S. § 16-103(E). The
26 proposed brief will not duplicate the parties’ arguments but will offer the Court a
27 perspective from organizations embedded in the military and overseas voting community.
28

1 **CONCLUSION**

2 For the foregoing reasons, SFI and CEH request that the Court grant this motion for
3 leave to file the accompanying amicus brief. A proposed order is submitted with this
4 motion.

5 RESPECTFULLY SUBMITTED this 28th day of September, 2026.

6 **COPPERSMITH BROCKELMAN PLC**

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14 Families Initiative and Count Every Hero*

**Pro Hac Vice Application Forthcoming*

15 ORIGINAL efiled and served via electronic
16 means this 28th day of September, 2026, upon:

17 The Honorable Michael J. Herrod
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12 /s/ Diana Hanson
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EXHIBIT 1

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REPUBLICAN PARTY OF ARIZONA LLC, an)
Arizona limited liability company and political
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Plaintiffs,

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STATE OF ARIZONA, a body politic; and
ADRIAN FONTES, in his official capacity as
the Secretary of State of Arizona,

Defendants

No. CV2025-022859

**BRIEF OF PROPOSED *AMICI*
CURIAE SECURE FAMILIES
INITIATIVE AND COUNT EVERY
HERO IN SUPPORT OF
DEFENDANTS**

(Assigned to Hon. Michael Herrod)

Secure Families Initiative (“SFI”) and Count Every Hero (“CEH”) respectfully
submit this *amicus* brief in support of Defendants’ motion for summary judgment.

INTRODUCTION

Somewhere overseas, a child of an Arizona service member has never physically lived in Arizona—not because she chose to leave the United States, but because her parent’s military career required the family to settle far from home. She is a U.S. citizen, and Arizona is the only American state she knows and to which she has social and familial ties. Her parent is registered to vote here. She has no residence or domicile anywhere else in the United States. Under A.R.S. § 16-103(E), she can vote in Arizona. Plaintiffs, the Republican Party of Arizona, the Republican National Committee, and Gina Swoboda, want this Court to take that right away.

This brief is submitted by *amici* who know that voter’s story because they have lived it or served in the military alongside those who have. Secure Families Initiative is a nonpartisan organization of military spouses and family members; Count Every Hero is a nonpartisan association of nine retired four-star admirals and generals, and former service secretaries. Together, they represent the communities most directly affected by Plaintiffs’ challenge—and are uniquely positioned to explain why Plaintiffs’ demand is not only legally unfounded but also profoundly unjust.

Plaintiffs’ challenge fails at every level. The Arizona Constitution vests the Legislature with broad, unrestricted authority to define what residency means in this State for voting purposes. The Legislature properly exercised that authority when it unanimously enacted A.R.S. § 16-103(E), recognizing the derivative residency of children of military and overseas Arizonans whose only connection to any American state runs through a parent registered to vote in Arizona. That legislative judgment is consistent with the bipartisan Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 52 U.S.C. §§ 20301-11, which reflects Congress’s intent to protect military and overseas voters and their families. And the real-world consequences of Plaintiffs’ requested relief confirm why this Court should reject it: the voters targeted by this challenge already face extraordinary barriers to exercising the franchise, and stripping their eligibility would bar many of them

1 from voting *anywhere* in the United States—despite being U.S. citizens and despite their
2 ties to Arizona, their contributions to American society, and their families’ service to this
3 country. This Court should reject Plaintiffs’ demand.

4 **INTEREST OF AMICI**

5 Secure Families Initiative (“SFI”) is a nonpartisan 501(c)(4) not-for-profit
6 organization composed of military spouses and family members. SFI is affiliated with the
7 501(c)(3) organization, Secure Families Foundation. SFI’s mission is to mobilize diverse
8 military partners, parents, children, and veterans to vote and advocate for their
9 communities. SFI advocates for federal and state policies that increase accessibility for
10 absentee voters and registered military affiliated and disenfranchised voters. SFI has
11 participated as *amicus curiae* in numerous other cases in state and federal courts to advance
12 the interests of military voters in interpreting voting statutes. *See, e.g., Mi Familia Vota v.*
13 *Fontes*, No. 24-3188 (9th Cir. Aug. 20, 2024); *Reschenthaler v. Schmidt*, No. 1:24-cv-1671
14 (M.D. Pa. Oct. 21, 2024); *Cobb Cnty. Bd. of Elections and Registration v. State Election*
15 *Bd.*, No. 24CV012491 (Ga. Super. Ct. Oct. 9, 2024); *Crawford v. State Election Bd.*, No.
16 24CV012349 (Ga. Super. Ct. Oct. 15, 2024); *Thurmond v. State Election Bd.*, No.
17 24CV9085 (Ga. Super. Ct. Oct. 9, 2024); *Eternal Vigilance Action, Inc. v. State*, No.
18 24CV011558 (Ga. Super. Ct. Oct. 9, 2024); *Griffin v. N.C. State Bd. of Elections*, No.
19 24CV040620-910 (N.C. Super. Ct. Feb. 3, 2025); *Mich. Republican Party v. Benson*, No.
20 372995 (Mich. Ct. App. Mar. 17, 2025).

21 *Amicus* Count Every Hero is a nonpartisan unincorporated association of nine
22 retired four-star admirals and generals, and former secretaries of the Army, Navy, and Air
23 Force: Admiral Steve Abbot, U.S. Navy (Retired); Admiral Thad Allen, U.S. Coast Guard
24 (Retired); Former Secretary of the Army Louis Caldera; General George Casey, U.S. Army
25 (Retired); General Carlton W. Fulford, Jr., U.S. Marine Corps (Retired); Former Secretary
26 of the Air Force Deborah Lee James; General John Jumper, U.S. Air Force (Retired);
27 General Craig McKinley, U.S. Air Force (Retired); and Former Secretary of the Navy Sean
28

O’Keefe. Through Count Every Hero, they are committed to protecting the voting rights of active-duty U.S. service members, veterans, and their families, among other national security issues of importance. In furtherance of that mission, Count Every Hero has participated as *amicus curiae* in other cases to advance the need for a clear and orderly chain of command and election administration procedures, particularly as they affect active-duty service members. *See, e.g., Trump v. United States*, No. 23-939 (U.S. April 8, 2024); *Moore v. Harper*, No. 21-1271 (U.S. Oct. 26, 2022); *Griffin v. N.C. State Bd. of Elections*, No. 24CV040620-910 (N.C. Super. Ct. Feb. 3, 2025).

ARGUMENT

I. The Arizona Constitution Unambiguously Grants the Arizona Legislature Authority to Define Residency to Include the Challenged Voters.

Article VII, § 2(A) of the Arizona Constitution requires that an eligible voter “shall have resided in the state for the period of time preceding such election as prescribed by law.” Plaintiffs read that language to embody two propositions: (1) it requires a voter to have “actually” resided in this State—that is, it imposes a physical residence requirement; and (2) it delegates to the Legislature only the authority to prescribe the required “period of time” (*i.e.*, duration of residency) and does not give the Legislature authority to dispense with a *bona fide* residency requirement altogether. Pls.’ Cross-Mot. Summ. J. at 10–11. Plaintiffs therefore incorrectly contend that A.R.S. § 16-103(E) is unconstitutional because it permits individuals who have never physically resided in Arizona to vote. *Id.*

Plaintiffs construe Article VII, § 2(A) too narrowly. Even if the Constitution imposes a *bona fide* residence requirement, nothing in the constitutional text or structure requires actual physical residence as a prerequisite for *bona fide* residence. Instead, Article VII’s own provisions confirm that residency is not synonymous with physical presence and Plaintiffs cite no authority to the contrary. The Legislature properly exercised its authority to classify voters that meet A.R.S. § 16-103(E)’s criteria as *bona fide* Arizona residents based on their derivative residency through their parents. This Court should reject

1 Plaintiffs’ attempt to add a physical presence requirement into the Arizona Constitution.
2 Neither the text nor legislative history provides any support for Plaintiffs’ effort to
3 disenfranchise the U.S. citizen children of military and other overseas Arizonans.

4 **A. Article VII, § 2(A) vests the Legislature with broad, unrestricted**
5 **authority to define what it means to “reside” in Arizona.**

6 In 2000, Arizona voters passed Proposition 101, amending Article VII, § 2(A) of
7 the Arizona Constitution to replace the requirement that voters “shall have resided in the
8 state one year immediately” preceding an election with its current language, which gives
9 the Legislature broader authority to prescribe residency. *See* H. Con. Res. 2004, 44th Leg.,
10 2d Reg. Sess. (Ariz. 2000). Article VII, § 2(A) of Arizona’s constitution now reads:

11 No person shall be entitled to vote at any general election, or for any office
12 that now is, or hereafter may be, elective by the people, or upon any question
13 which may be submitted to a vote of the people, unless such person be a
14 citizen of the United States of the age of eighteen years or over, and ***shall***
15 ***have resided in the state for the period of time preceding such election as***
prescribed by law, provided that qualifications for voters at a general election
for the purpose of electing presidential electors shall be as prescribed by law.

16 (emphasis added).¹

17 “The governing principle of constitutional construction is to give effect to the intent
18 and purpose of the framers of the constitutional provision and of the people who adopted
19 it.” *Apache Cnty. v. Sw. Lumber Mills, Inc.*, 92 Ariz. 323, 327 (1962) (en banc). Courts
20 must “start with the plain meaning” of the text, interpret the “constitutional provision in its
21 broader context[,] and aim to give effect to every word such that no word or provision is
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23
24 ¹ Article VII, § 2(A) previously read: “No person shall be entitled to vote at any general
25 election, or for any office that now is, or hereafter may be, elective by the people, or upon
26 any question which may be submitted to a vote of the people, unless such person be a
27 citizen of the United States of the age of twenty one years or over, and ***shall have resided***
28 ***in the state one year immediately*** preceding such election as prescribed by law, provided
that qualifications for voters at a general election for the purpose of electing presidential
electors shall be as prescribed by law.” Article VII, § 2(A) (emphasis added).

1 rendered superfluous.” *Knight v. Fontes*, 261 Ariz. 29, 579 P.3d 1235, 1242 ¶ 19 (2025).
2 “When the language of a provision is clear and unambiguous, [courts] apply it without
3 resorting to other means of constitutional construction.” *Heath v. Kiger*, 217 Ariz. 492, 494
4 ¶ 6 (2008) (en banc).

5 Here, there is no need to battle the text: the Arizona Constitution straightforwardly
6 gives the Legislature authority—indeed, requires it—to define what it means to reside in
7 this State for voting purposes. That authority is broad and unqualified. “Without some
8 indication to the contrary, general words . . . are to be accorded their full and fair scope . . .
9 [and] not be arbitrarily limited.” Antonin Scalia & Bryan A. Garner, *Reading Law: The*
10 *Interpretation of Legal Texts* at 101 (Thompson/West, 1st ed. 2012). In 2000, the
11 Legislature referred—and the voters approved—an amendment to Article VII that
12 explicitly *eliminated* the one-year durational residency requirement. The amendment
13 therefore removed—not imposed—a requirement of a fixed period of residency in Arizona
14 before a person could become eligible to vote. Instead, the Constitution gives the
15 Legislature the authority and flexibility, through the phrase “as prescribed by law,” to
16 address the unique circumstances of different groups of U.S. citizens who consider Arizona
17 home.

18 As the Arizona Supreme Court has explained, “[t]he constitution itself does not
19 prescribe the qualifications of voters,” rather it sets “restrictions or limitations upon the
20 power of the legislature to provide who shall vote, and as long as that body acts within
21 these bounds it may prescribe such qualifications as it thinks wise.” *Ahrens v. Kerby*, 44
22 Ariz. 337, 340-41 (1934). Arizona’s Constitution imposes only two limitations: a voter
23 must be a United States citizen and at least 18 years old. Subject to those limitations, and
24 to the U.S. Constitution and federal statutes, the Legislature may prescribe voter
25 qualifications as it sees fit.
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1 **B. The Legislature properly exercised its authority by recognizing the**
2 **derivative residency and domicile of children of military and other**
3 **overseas Arizonans.**

4 Even assuming Article VII, § 2(A) contains a *bona fide* residency requirement,
5 A.R.S. § 16-103(E) satisfies it. Arizona, like the 38 other states with provisions extending
6 the right to vote to certain populations who have never physically lived in the state,
7 reasonably classifies such United States citizens as residents for voting purposes based on
8 their superior ties to their family’s home state over any other.² In enacting A.R.S. § 16-
9 103(E), the Arizona Legislature recognized these voters’ derivative or imputed residency
10 based on their parents’ prior Arizona residency, their parents’ current Arizona voter
11 registration, and the fact that these voters have never acquired a different domicile or
12 residency in another U.S. state. A.R.S. § 16-103(E); 2025 Election Procedures Manual at
13 18.³ Nothing in the Arizona Constitution prevents the Legislature from determining that
14 United States citizens such as these voters may qualify as *bona fide* residents and qualified
15 electors in Arizona without ever *physically* residing in Arizona.

16 The Legislature’s decision to define these voters as Arizona residents reflects its
17 explicit—and accurate—determination that they are part of their families’ home state
18 communities and entitled to cast their ballots here. Despite needing to “navigate [the] added
19 complexities of citizenship and residency, in addition to . . . time, distance, and mobility
20 challenges,”⁴ these voters remain strongly connected to Arizona as their family’s home

21 ² *Never Resided in the U.S.?*, Fed. Voting Assistance Program, [web.archive.org/web/](https://web.archive.org/web/20250228101132/https://www.fvap.gov/citizen-voter/reside)
22 [20250228101132/https://www.fvap.gov/citizen-voter/reside](https://web.archive.org/web/20250228101132/https://www.fvap.gov/citizen-voter/reside) (captured Feb. 28, 2025)
23 (accessed via Internet Archive Sep. 20, 2026) (listing the 38 other states in question and
the conditions under which “never resident” voting is permitted).

24 ³ Citations to “2025 Election Procedures Manual” are to the Elections Procedures Manual,
25 issued on December 22, 2025 and published on the Secretary’s website at:
<https://perma.cc/U7P3-6FJE>.

26 ⁴ *A Policy Brief: Never Resided Voters*, Fed. Voting Assistance Program at 5 (2017),
27 [https://web.archive.org/web/20250305205525/https://www.fvap.gov/uploads/FVAP/EO/](https://web.archive.org/web/20250305205525/https://www.fvap.gov/uploads/FVAP/EO/FVAPNeverResidedPolicyBrief_20170222_FINAL.pdf)
28 [FVAPNeverResidedPolicyBrief_20170222_FINAL.pdf](https://web.archive.org/web/20250305205525/https://www.fvap.gov/uploads/FVAP/EO/FVAPNeverResidedPolicyBrief_20170222_FINAL.pdf) (captured Mar. 5, 2025) (accessed
via Internet Archive Sep. 20, 2026).

1 state. Indeed, through family ties, regular visits, and ongoing contributions to American
2 society, including sometimes, through tax payments, these voters are often more connected
3 to Arizona than to the country where they physically reside and where they may not be
4 citizens. These voters deserve the ability to participate in the very democratic processes
5 their families serve to protect, and to do so in Arizona where they have the strongest ties.

6 The distinction between *bona fide* residency and durational residency, properly
7 understood, supports A.R.S. § 16-103(E)’s constitutionality. The U.S. Supreme Court
8 explained that “*bona fide* residence requirements” simply require a would-be voter to
9 demonstrate compliance with whatever lawful test the state has established for determining
10 who is properly considered a resident of the state, however that term is defined by state
11 law. *Dunn v. Blumstein*, 405 US 330, 351 (1972). A voter typically makes that showing by
12 attesting that they meet the legislatively established residency standards. *Id.* at 351 n.22.
13 By contrast, a durational residency requirement “completely bar[s] from voting all
14 residents not meeting the fixed durational standard.” *Id.* at 336. “Durational residence laws
15 penalize those persons who have traveled from one place to another to establish a new
16 residence during the qualifying period. Such laws divide residents into two classes, old
17 residents and new residents, and discriminate against the latter to the extent of totally
18 denying them the opportunity to vote.” *Id.* at 334-35. Durational residency requirements
19 are subject to strict scrutiny and survive in limited circumstances, only where states have
20 made specific and reasonable findings that such requirements are necessary for election
21 administrability. *Id.* at 346; *see also Marston v. Lewis*, 410 U.S. 679 (1973); *Burns v*
22 *Fortson*, 410 U.S. 686 (1973).⁵

23
24 ⁵ Notably, the voters Plaintiffs seek to disenfranchise are not “new [Arizona] residents.”
25 *Dunn*, at 334. Since they were born, Arizona has been their only U.S. home. If it were not
26 for their parent’s service to our country, many would have physically resided in the State
27 and for this reason, the Legislature has determined that they have sufficient ties to the State
28 to be *bona fide* residents. Again, the legislature has the authority to define who is a *bona*
fide Arizona resident, *Dunn*, 405 U.S. at 351; *Kerby*, 44 Ariz. at 340, and durational
residency requirements necessarily only apply to individuals who are new or returning to

1 *Bona fide* residency requirements therefore ask only whether a would-be voter is a
2 resident as defined by state law for the relevant purpose; they do not impose the rigid
3 physical presence requirement Plaintiffs demand. Consistent with that principle, the
4 Arizona Legislature recognized the children of military and overseas voters serving and
5 working abroad as *bona fide* Arizona residents for voting purposes. Arizona’s statutory
6 framework likewise recognizes imputed or derived residency for specific legal purposes—
7 even without any actual physical presence in the State—in multiple other contexts. *See*,
8 *e.g.*, A.R.S. §§ 15-1802(D) (outlines the test for establishing residency for in-state tuition),
9 15-1804(A)(2)-(3) (domicile is not lost by mere absence), 46-210 (military service does
10 not forfeit Arizona residence), 25-1013 (an Arizona dependent of a military person does
11 not lose their Arizona residency because of their parent’s deployment); *see also Garay*
12 *Uppen v. Superior Ct. of Pima Cnty.*, 116 Ariz. 81, 83 (Ct. App. 1977) (holding that
13 although a child had never been in Arizona or the United States and his only connection
14 with the state was his mother being a resident and domiciliary, Arizona was the child’s
15 domicile; “his physical presence was not a prerequisite for jurisdiction”).

16 Thus, A.R.S. § 16-103(E) is not an exception to a *bona fide* residency requirement.
17 Instead, it recognizes the United States citizen children of overseas Arizonans as *bona fide*
18 Arizona residents. If stripped of the ability to vote in their family’s home state—the state
19 with which they have the strongest nexus—these United States citizens may be barred
20 entirely from having a voice in our democracy. The Legislature was well within its
21 authority to prevent that result by recognizing these United States citizens as Arizona
22 residents for voting purposes.

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27 the State. They do not apply to the threatened voters here who never abandoned their
28 residency in the first place.

1 **C. Article VII’s own provisions confirm that Arizona residency is not**
2 **synonymous with physical presence.**

3 Plaintiffs’ attempt to import an actual physical-presence requirement into Article
4 VII, § 2(A) is belied by other provisions of Article VII, which confirm that Arizona
5 residency is ***not*** synonymous with physical presence. Article VII, § 3, for example,
6 provides that residence is not gained or lost “by reason of being present or absent” due to
7 federal employment, school attendance, or incarceration. Article VII, § 6 likewise provides
8 that military personnel “shall not be deemed a resident of this state” merely by “being
9 stationed within the state.” Together, these provisions show that the Arizona Constitution
10 itself recognizes physical presence as neither necessary nor sufficient for Arizona
11 residency. These provisions undermine Plaintiffs’ argument.

12 At bottom, the Constitution gives the Legislature authority to define who is an
13 Arizona resident for purposes of voting. *See Dunn*, 405 U.S. at 351; *Kerby*, 44 Ariz. at 340;
14 Defs. Reply in Support of MTD at 9–10. Nothing in the Arizona Constitution requires
15 actual physical residence as a condition of *bona fide* residency for voting purposes, and
16 Article VII’s own provisions confirm the point. A.R.S. § 16-103(E) therefore falls within
17 the bounds of the Arizona Constitution and represents a proper exercise of legislative
18 authority. The Court should reject Plaintiffs’ request to add extratextual constitutional
19 requirements in order to disenfranchise the voters at issue. It should instead honor the
20 express will of the Arizona Legislature and voters, who specifically sought to protect the
21 voting rights of U.S. citizen children of Arizonans living and serving overseas.

22 **II. A.R.S. § 16-103(E) Is Consistent with the Text and Purpose of UOCAVA.**

23 The Legislature’s exercise of its constitutional authority to define residency through
24 A.R.S. § 16-103(E) is further supported by federal law.

25 A.R.S. § 16-103(E) advances a central goal of the Uniformed and Overseas Citizens
26 Absentee Voting Act (UOCAVA). In UOCAVA, a bipartisan act, Congress expressed an
27 unequivocal intent to protect military and overseas voters and facilitate their ability to
28

1 participate in federal elections. To that end, Congress sought “to facilitate absentee voting
2 by United States citizens, both military and civilian, who are overseas.” H.R. Rep. No. 99-
3 765, at 5 (1986), reprinted in 1986 U.S.C.C.A.N. 2009, 2009. This includes voting by
4 “absent uniformed services voter[s]”—specifically defined to include “a spouse or
5 dependent” of a uniformed service member “who, by reason of the active duty or service
6 of the member, is absent from the place of residence where the spouse or dependent is
7 otherwise qualified to vote.” 52 U.S.C. § 20310(1) (emphasis added). Thus, UOCAVA
8 itself recognizes that residency for purposes of voting does not rely on physical presence.
9 Likewise, under the Military Spouse Residency Relief Act, a spouse of a service member
10 is entitled to “elect to use the same residence as the servicemember regardless of the date
11 on which the marriage of the spouse and the servicemember occurred.” 50 U.S.C. §
12 4025(b)(2). Once again, federal law protecting service members and their families
13 recognizes that residency does not always depend on physical presence.

14 The voters Plaintiffs target may never have physically lived in Arizona precisely
15 because their family member’s military duty required them to serve broad—to safeguard
16 our freedom and democracy here at home. Many service members and their spouses often
17 start their families while deployed abroad. This is precisely the scenario A.R.S. § 16-103(E)
18 was designed to address. As Representative Gerstle stated on the House floor when
19 considering A.R.S. § 16-103(E), “there are cases where children are born on a military base
20 overseas and never live in the United States. These people are still United States citizens
21 and have the right to vote.” Minutes of Ariz. H. Comm. on Cntys., Muns. & Mil. Affs.,
22 47th Leg., 1st Reg. Sess. (Feb. 1, 2005), AZ H.R. Comm. Min., 2/1/2005 (Westlaw).
23 Representative Quelland maintained “this is a wonderful thing for citizens who serve
24 overseas” and proclaimed the bill “has wide support.” Minutes of Ariz. H. Comm. on
25 Judiciary, 47th Leg., 1st Reg. Sess. (Feb. 17, 2005), AZ H.R. Comm. Min., 2/17/2005
26 (Westlaw). The Arizona Legislature thus enacted A.R.S. § 16-103(E) with full awareness
27 of the voters it would protect—and in direct furtherance of UOCAVA’s mandate.
28

1 This Court should reject Plaintiffs’ request to undo that considered legislative
2 judgment and undermine the bipartisan federal objectives it advances.

3 **III. Plaintiffs Seek to Disenfranchise Voters Who Already Face Extraordinary**
4 **Barriers to Exercising Their Right to Vote.**

5 Beyond its firm grounding in the Arizona Constitution and federal law, A.R.S. § 16-
6 103(E) serves a vital practical and democratic purpose: it protects United States citizens
7 who already face extraordinary barriers to exercising their right to vote and who would
8 otherwise not be eligible to register to vote in any American state.

9 **A. Military and overseas voters already face formidable barriers to**
10 **exercising the franchise.**

11 Plaintiffs seek to disenfranchise the very voters the Arizona Legislature and
12 Congress acted to protect. The relief Plaintiffs seek is particularly pernicious given the
13 myriad barriers overseas voters must already overcome to cast their ballots abroad. *Amicus*
14 SFI, for example, has 99 members who vote in Arizona while serving at home and abroad
15 with their military spouse and children. Arizonans abroad—including SFI members and
16 other military service members and their families—face extraordinary logistical and
17 procedural challenges when attempting to participate in the electoral process. Indeed, when
18 passing the National Defense Authorization Act in 2010, Congress found the “military is
19 one of the most disenfranchised voting blocks [sic]” in the country, despite serving our
20 country to protect the very freedoms they are blocked from exercising. 155 Cong. Rec.
21 S7947-03, S7966. Those voters who make the time and effort to overcome these
22 barriers demonstrate their commitment to Arizona as their democratic and political home.

23 Overseas voters face formidable obstacles at every stage of the process—from
24 registering to vote, to requesting and returning absentee ballots, to meeting key deadlines.
25 The result is stark: only an estimated 7.8% of eligible overseas citizens voted in the 2020
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27
28

1 general election, compared to 79.2% of domestic voters.⁶ In the 2022 midterms, the gap
2 was even wider—just 3.4% of eligible overseas citizens voted, compared to 62.5% of
3 domestic voters.⁷ The voters Plaintiffs seek to disqualify have already gone above and
4 beyond to make their voices heard, underscoring the depth of their ties to Arizona.

5 *Amici* submit this brief to safeguard the voices of all voters abroad, regardless of
6 their partisan affiliation. These voters represent a diverse swath of American society.⁸ In
7 terms of party preference, military members were near evenly split among the two major
8 party presidential candidates in the 2020 election,⁹ and, historically, enlisted personnel are
9 about three times more likely to identify as independents than their civilian counterparts.¹⁰
10 Whatever partisan calculation may motivate Plaintiffs’ challenge, acceding to such
11 challenges would unfairly disenfranchise voters from a wide array of political, social,
12 racial, and economic backgrounds—many of whom are supporting family members
13 serving America overseas. This Court should reject this result and instead uphold the
14 Legislature’s considered judgment to protect these voters’ fundamental right to vote.

15 **B. Plaintiffs inaccurately minimize the impact on military families.**

16 Plaintiffs dismissively claim that the affected voters are “almost certainly not the
17 children of military service members” because “continuous military deployments generally
18

19 ⁶ Fed. Voting Assistance Program, 2020 Overseas Citizen Population Analysis Report 35 (Sept.
20 2021), [https://web.archive.org/web/20250309034053/](https://web.archive.org/web/20250309034053/https://www.fvap.gov/uploads/FVAP/Reports/O)
21 <https://www.fvap.gov/uploads/FVAP/Reports/O>.

22 ⁷ *Id.*

23 ⁸ Kim Parker, Anthony Cilluffo & Renee Stepler, *6 Facts About the U.S. Military and Its*
24 *Changing Demographics*, Pew Research Center (April 13,
25 2017), [https://www.pewresearch.org/short-reads/2017/04/13/6-facts-about-the-u-s-military-and-](https://www.pewresearch.org/short-reads/2017/04/13/6-facts-about-the-u-s-military-and-its-changing-demographics/)
26 [its-changing-demographics/](https://www.pewresearch.org/short-reads/2017/04/13/6-facts-about-the-u-s-military-and-its-changing-demographics/).

27 ⁹ Niall McCarthy, *U.S. Military Voting Intention in 2016 and 2020*, Statista (Sept. 1,
28 2020), [https://www.statista.com/chart/22761/us-military-voting-intention-in-the-november-](https://www.statista.com/chart/22761/us-military-voting-intention-in-the-november-election/)
[election/](https://www.statista.com/chart/22761/us-military-voting-intention-in-the-november-election/).

¹⁰ Donald Stephen Inbody, *Grand Army of the Republic or Grand Army of the Republicans?:*
Political Party and Ideological Preferences of American Enlisted
Personnel 100 (Aug. 2009), [https://repositories.lib.utexas.edu/items/596313fa-4545-4735-8a75-](https://repositories.lib.utexas.edu/items/596313fa-4545-4735-8a75-299c5b91fe8a)
[299c5b91fe8a](https://repositories.lib.utexas.edu/items/596313fa-4545-4735-8a75-299c5b91fe8a).

1 never extend beyond roughly 220 days or 440 days,” citing 10 U.S.C. § 991. Plaintiffs
2 Compl. at 6 and MSJ at 3-4. This inaccurate assertion reveals Plaintiffs’ lack of
3 understanding of military and overseas life.

4 Plaintiffs misunderstand the term “deployment” and appear unaware that a
5 deployment under 10 U.S.C. § 991 is only one of several types of official travel that may
6 send a military service member away from home. A deployment is short-term travel for a
7 specific mission, typically involving training or combat operations,¹¹ and such travel may
8 be as time limited as Plaintiffs suggest. However, when military service members *and their*
9 *families* move overseas, that move is classified as a Permanent Change of Station (PCS).¹²
10 PCSs typically last for years, and military service members often have consecutive
11 overseas PCSs where the entire family moves from one country to the next. This is
12 especially true for service members in certain career fields, like foreign service officers,
13 downrange satellite communications officers, or those with special duties, like embassy
14 security or military firefighting, which function almost exclusively overseas.

15 Plaintiffs also overlook that military and overseas families take many forms. For
16 example, it is fairly common for military service members to meet and marry while abroad
17 and have children abroad (or adopt the children of their spouse). In some cases, military
18 service members who spend years serving abroad have families that are well settled abroad.
19 Their spouse and U.S. citizen children may stay abroad to avoid familial disruption even
20 while the service member returns to the United States for another PCS. In those cases, the
21 service members’ children may turn 18 while still living abroad.

22 Plaintiffs likewise ignore the children of U.S. citizens who were born overseas
23 because of their parent’s military service who remained abroad even after their service
24 member parent transitioned to civilian or contract work for the military. Although the
25

26 ¹¹ PCS, TDY, and Deployments, Veterans.com (Nov. 5, 2022), [https://veteran.com/pcs-](https://veteran.com/pcs-tdy-deployments/)
27 [tdy-deployments/](https://veteran.com/pcs-tdy-deployments/).

28 ¹² *Id.*

formal military “deployment” or PCS may have ended, these children have not returned to the United States because their parent, who is now a veteran of the U.S. military, continues to serve our country and contribute to national security, albeit in a different capacity. Finally, Plaintiffs completely ignore the children of diplomatic and civilian government families who also serve the country abroad for extended periods of time.

As *Amici* know all too well, service members already struggle with uncertainty and feelings of guilt when their career forces their families to live in a country that is far away from their home and social networks. Plaintiffs' request compounds these burdens and further penalizes Arizonans who serve abroad by threatening to disenfranchise their children. This Court should reject Plaintiffs' request for what it is: an attempt to disenfranchise the family members of Arizonans living and serving their country overseas simply because Plaintiffs believe they are more likely to support the opposing party. This demand is unsupported by the law and fundamentally at odds with our democratic values.

CONCLUSION

For the foregoing reasons, the Court should grant Defendants' Motion for Summary Judgment.

RESPECTFULLY SUBMITTED this 28th day of September, 2026.

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**Pro Hac Vice Application Forthcoming*

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