No. 20A67

In the Supreme Court of the United States

JOHN H. MERRILL,
Alabama Secretary of State, *et al.*,
APPLICANTS,

v.

PEOPLE FIRST OF ALABAMA, *et al.*,
RESPONDENTS.

MOTION FOR LEAVE TO FILE AND BRIEF OF THE DISTRICT OF COLUMBIA AND THE STATES OF CALIFORNIA, CONNECTICUT, DELAWARE, HAWAII, ILLINOIS, MARYLAND, MICHIGAN, MINNESOTA, NEVADA, NEW MEXICO, NEW YORK, OREGON, RHODE ISLAND, VERMONT, VIRGINIA, AND WASHINGTON AS *AMICI CURIAE* IN OPPOSITION TO THE EMERGENCY APPLICATION FOR A STAY

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The District of Columbia and the States of California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington (collectively, the "*Amici* States") move for leave to file the enclosed brief as *amici curiae* in support of respondents and in opposition to the application for a stay (i) without 10 days' advance notice to the parties of *amici*'s intent to file as ordinarily required by Sup. Ct. R. 37.2(a), and (ii) in an unbound format on 8½-by-11-inch paper rather than in booklet form.

Applicants filed their emergency application for a stay in this matter on October 15, 2020. In light of the expedited briefing schedule, it was not feasible to provide 10 days' notice to the parties. In addition, the compressed time frame prevented the *Amici* States from having the brief finalized in sufficient time to allow it to be printed and filed in booklet form. When notified, applicants and respondents consented to its filing.

As set forth in the enclosed brief, the undersigned *Amici* States have a strong interest in the outcome of this application to stay the preliminary injunction. Specifically, the *Amici* States have a critical interest in ensuring that states safeguard the integrity of the election process without forcing residents—particularly elderly or disabled residents—to choose between their franchise and their health.

The *Amici* States thus have a distinct perspective on the harms asserted by the applicants, and the *amicus* brief includes relevant material not brought to the attention of the Court by the parties that may be of considerable assistance to the

Court. *See* Sup. Ct. R. 37.1. The brief describes how the *Amici* States have experience with curbside voting regimes—including policies that leave the decision whether to implement curbside voting to local officials. Through that experience, *Amici* have learned that curbside voting is safe, relatively easy to implement, and effective in providing voting to individuals, like elderly or disabled voters, who may otherwise face barriers to in-person voting. The *Amici* States' first-hand experiences with safe and secure methods of curbside voting—with no evidence of fraud—help illuminate why the preliminary injunction will not result in irreparable harm to the applicants and why the injunction is in the public interest.

The undersigned *Amici* States therefore seek leave to file this brief in order to support respondents' showing that denying the applicants' requested stay will not result in irreparable harm or contravene the public interest, but granting a stay will harm voters and public health.

CONCLUSION

This Court should grant *amici curiae* leave to file the enclosed brief.

Respectfully submitted,

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TABLE OF CONTENTS

STATEMENT OF INTEREST OF *AMICI CURIAE* 1

ARGUMENT 3

I. Local Election Officials And States Require Flexibility To Ensure That Residents Can Vote Safely Amid The Ongoing Public Health Emergency 3

A. Allowing states and localities to tailor local elections to local conditions benefits both voters and the overall electoral system 4

B. Numerous state and local election officials have implemented curbside voting policies 5

II. There Is No Evidence That Permitting Curbside Voting Will Result In Voter Fraud, Is Impracticable, Or Raises Privacy Concerns 9

CONCLUSION 14

TABLE OF AUTHORITIES

Cases

Burdick v. Takushi, 504 U.S. 428 (1992) 3

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Nken v. Holder, 556 U.S. 418 (2009) 14

People First of Alabama v. Merrill, No. 2:20-CV-00619, 2020 WL 5814455 (N.D. Ala. Sept. 30, 2020) 10, 12

United Haulers Ass'n v. Oneida-Herkimer Solid Waste Mgmt. Auth., 550 U.S. 330 (2007) 2

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Ala. Code § 17-1-3 12

Ala. Code § 17-6-4 3

Ariz. Rev. Stat. § 16-452 13

Cal. Elec. Code § 14282 15

Cal. Gov't Code § 12172.5 13

Mich. Comp. Laws § 168.751 8

Miss. Code. § 23-15-541 8

N.C. Gen. Stat. § 163-166.9 8

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17 Vt. Stat. § 2101 8

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Vt. Off. of Sec'y of State, *Accessibility* 9

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Covid-19 and an Atmosphere of Distrust Pose Grave Risks to America's Election, The Economist (Sept. 3, 2020) 5

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Alec C. Ewald, *The Way We Vote: The Local Dimension of American Suffrage* (2009) 4

The Federalist No. 59 (Alexander Hamilton) (Clinton Rossiter ed., 1961) 4

Tiffany Ford, et al., *Race Gaps in COVID-19 Deaths are Even Bigger than They Appear*, Brookings (June 16, 2020) 6

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David C. Kimball & Brady Baybeck, *Are All Jurisdictions Equal? Size Disparity in Election Administration*, 12 Election L.J. 130 (2013) 4

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Nat'l Conf. of State Legistures, *Worlds Apart: Urban and Rural Voting*, The Canvass (Oct. 2014) 4

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STATEMENT OF INTEREST OF *AMICI CURIAE*

The District of Columbia and the States of California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington (collectively, the "*Amici* States") submit this brief as *amici curiae* in support of respondents and in opposition to applicants' emergency application for a stay. Many *Amici* States have experience with curbside voting regimes—including policies that leave the decision whether to implement curbside voting to local officials. Through that experience, states have learned that curbside voting is safe, relatively easy to implement, and not associated with voter fraud. Moreover, curbside voting is particularly beneficial for vulnerable citizens and those with mobility challenges, including those with disabilities. Especially in the context of the novel coronavirus, it furthers states' interests to allow counties—within reason, and consistent with the law—to implement common-sense measures like curbside voting meant to safeguard both the franchise and public health.

While "states generally play the primary decisionmaking role" in conducting elections, "the day-to-day implementation of election administration policy is still mostly handled by localities." Karen L. Shanton, Cong. Rsch. Serv., R45549, *The State and Local Role in Election Administration: Duties and Structures* 7 (Mar. 4, 2019).[1] Indeed, states rely on local election officials to reasonably and diligently aid voters. As a result, there is considerable variation in election processes in

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[1] *Available at* https://bit.ly/2T8tHRC.

jurisdictions across the country, and local election officials often bear responsibility for ensuring seamless election administration. Allowing them to do so makes the machinery of democratic self-governance work.

Alabama asks that this Court stay the district court's "injunction of Secretary Merrill's so-called 'ban on curbside voting.'" Application for Stay ("Appl.") 8. In Alabama's view, the district court's order permitting—but not requiring—local election administrators to make the context-specific decision whether to provide curbside voting thwarts Alabama's interests in "preventing voter fraud, running efficient elections, and keeping voters safe." *Id.* at 23. In the *Amici* States' experience, this is not so.

The *Amici* States know from their own experience that curbside voting promotes safe and fair elections. A majority of states and the District of Columbia permitted curbside voting before the pandemic. And many have expanded its availability since the coronavirus took hold. Still, voter fraud remains exceptionally rare, and there is no evidence that it is associated with curbside voting. Nor have states or localities faced onerous hurdles regarding logistics or privacy when implementing curbside voting. As the *Amici* States' experience demonstrates, it is possible to implement straightforward practices that protect the integrity of the electoral process without resorting to techniques that force voters to make the impossible choice between exercising their fundamental right to vote in person and potentially exposing themselves to COVID-19.

States are vested with the serious and ongoing "responsibility of protecting the health, safety, and welfare of [their] citizens." *United Haulers Ass'n v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 342 (2007). They also have an obligation to safeguard their citizens' constitutional right to vote. *Cf. Burdick v. Takushi*, 504 U.S. 428, 433 (1992). The district court's judgment regarding curbside voting furthers those interests. This Court should allow it to remain in place.

ARGUMENT

I. Local Election Officials And States Require Flexibility To Ensure That Residents Can Vote Safely Amid The Ongoing Public Health Emergency.

Under our constitutional system, "States have a major role to play in structuring and monitoring the election process." *Cal. Democratic Party v. Jones*, 530 U.S. 567, 572 (2000). But states cannot fulfill that role alone. To make democratic self-governance possible, states "vest considerable authority in localities to carry out basic tasks." Heather K. Gerken, *The Democracy Index* 20 (2009). Indeed, in Alabama, as in many states, counties are responsible for designating the number and location of polling places, determining how many voting machines are necessary, and ensuring the accessibility and integrity of the election. Ala. Code § 17-6-4. Allowing counties in Alabama to offer curbside voting is consistent both with the traditional role of localities and with similar policies adopted by state and local election administrators across the United States. *See* Addendum. That is especially true given that states are *required* to provide equal access to the polls for the elderly and persons with disabilities. 52 U.S.C. § 20102(a); 42 U.S.C. § 12132. Allowing local

flexibility is also consistent with states' twin interests in protecting public health—especially during the global health pandemic—and safeguarding the right to vote.

A. Allowing states and localities to tailor local elections to local conditions benefits both voters and the overall electoral system.

Our "hyperfederalized" system, where localities bear the responsibility to administer the nuts and bolts of elections, exists by design. Alec C. Ewald, *The Way We Vote: The Local Dimension of American Suffrage* 9 (2009). As Alexander Hamilton wrote at the time of the founding, "the regulation of elections for the federal government" falls "in the first instance[] to the local administrations" which, he predicted, "may be both more convenient and more satisfactory." *The Federalist* No. 59, at 362-63 (Alexander Hamilton) (Clinton Rossiter ed., 1961). Local needs differ vastly both between and within states. Because "jurisdictions vary dramatically in terms of the size of the voting population they serve," David C. Kimball & Brady Baybeck, *Are All Jurisdictions Equal? Size Disparity in Election Administration*, 12 Election L.J. 130, 130 (2013), two localities coordinating the same election may need to administer it in ways that are "[w]orlds apart," Nat'l Conf. of State Legislatures, *Worlds Apart: Urban and Rural Voting*, The Canvass 2-3 (Oct. 2014).[2] Although states often exercise their sovereign prerogative to prescribe voting procedures for all residents, crafting rules well-suited to every context can be challenging as states face a "one size does not fit all problem." Presidential Comm'n on Election Admin., *The American Voting Experience: Report and Recommendations of the Presidential*

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[2] *Available at* https://bit.ly/2Tb7ORm.

Commission on Election Administration 9 (Jan. 2014) (internal quotation marks omitted).[3] For elections to function smoothly, states *and* local election officials often require flexibility to make context-specific judgments tailored to local conditions. *See* Justin Weinstein-Tull, *Election Law Federalism*, 114 Mich. L. Rev. 747, 798 (2016).

B. Numerous state and local election officials have implemented curbside voting policies.

Flexibility is essential in the run-up to any electoral contest, but it is particularly critical during the COVID-19 pandemic. Despite the public health emergency, election experts "predict a high turnout in November" when "[a]s much as 70% of the 240 [million]-strong electorate is expected to vote." *Covid-19 and an Atmosphere of Distrust Pose Grave Risks to America's Election,* The Economist (Sept. 3, 2020).[4] Election officials thus face the unique challenge of overseeing the democratic process while preventing transmission of the novel coronavirus.

The effects of COVID-19 have varied significantly in both severity and timing for each state—and for each county. *See, e.g.*, W. Messner & S.E. Payson, *Variation in COVID-19 Outbreaks at the US State and County Levels*, 187 Pub. Health 15, 15 (2020) (noting that, as factors such as "biological determinants, demographic profiles, type of habitat, and socio-economic characteristics" vary across the United States, "there is likely to be considerable intra-country variation in the outbreak as well"). Given the disruption caused by COVID-19, 49% of registered voters expect to face

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[3] *Available at* https://bit.ly/37kPWvQ.

[4] *Available at* https://econ.st/3knxdDm.

difficulties casting a ballot this fall. Pew Rsch. Ctr., *Election 2020: Voters Are Highly Engaged, but Nearly Half Expect to Have Difficulties Voting* (Aug. 13, 2020).[5]

Additionally, the risk of COVID-19 falls disproportionately on the very groups that would benefit most from curbside voting. *See* Appl. Appendix ("App'x") 12, 17, 96-97. Eight out of ten COVID-19-related deaths have been among adults 65 and older. Ctrs. for Disease Control & Prevention, *Older Adults* (Sept. 11, 2020).[6] Certain disabilities also place individuals in a higher risk category for complications from COVID-19. World Health Org., *Disability Considerations During the COVID-19 Outbreak* 2.[7] And the disproportionate effects of COVID-19 on the Black community are well-known. *See, e.g.*, Ctrs. for Disease Control & Prevention, *COVID-19 Hospitalization and Death by Race/Ethnicity* (Aug. 18, 2020)[8] (showing that non-Hispanic African-Americans are 4.7 times more likely to be hospitalized due to COVID-19 and 2.1 times more likely to die, as compared to white Americans); Tiffany Ford, et al., *Race Gaps in COVID-19 Deaths are Even Bigger than They Appear*, Brookings (June 16, 2020)[9] ("The age-adjusted COVID-19 death rate for Black people is 3.6 times that for whites . . . ."). Indeed, among Alabamians, Black Americans have

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5 *Available at* https://pewrsr.ch/3dBSmHq.

6 *Available at* https://bit.ly/31gpEHe.

7 *Available at* https://bit.ly/3kaZoFR (last visited Oct. 19, 2020).

8 *Available at* https://bit.ly/3dBDBEL.

9 *Available at* https://brook.gs/2HdOO2e.

the highest death rate from COVID-19. Ramsey Archibald, *Black Alabamians Hit Disproportionately as Coronavirus Deaths Pass 1,000*, AL.com (July 8, 2020).[10]

Confronted with this unprecedented challenge, states and localities have taken reasonable, context-specific steps to ensure that the pandemic will not disenfranchise voters. Chief among these is the expansion of flexible forms of casting a ballot, including curbside voting. Curbside voting is especially helpful to vulnerable voters, including those with disabilities. *Cf. Veasey v. Abbott*, 830 F.3d 216, 255 (5th Cir. 2016) (Mail-in voting "is not the equivalent of in-person voting for those who are able and want to vote in person."); U.S. Dep't of Justice, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities* 3 (Sept. 2014) ("While absentee balloting can be offered to voters with disabilities, it cannot take the place of in-person voting for those who prefer to vote at the polls on Election Day.").[11] Without curbside voting, some Alabama voters may be unable to cast their vote in person. This burden will fall disproportionately on voters who are disabled, elderly, and Black.

Curbside voting is a targeted solution to ensure that no eligible voter is disenfranchised. The practice is not new. Even before the pandemic, a majority of states and the District of Columbia offered some form of curbside assistance as a way to comply with federal laws requiring that "all polling places for Federal elections" be accessible for "handicapped and elderly voters." 52 U.S.C. § 20102(a); *see* Rabia Belt,

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10 *Available at* https://bit.ly/34bnpqB.

11 *Available at* https://bit.ly/3lYNv6b.

Contemporary Voting Rights Controversies Through the Lens of Disability, 68 Stan. L. Rev. 1491, 1523-1550 (2016). As early as 2000, 56% of polling places nationwide that had one or more potential impediments to accessibility offered curbside voting. U.S. Gov't Accountability Off., GAO-02-107, *Voters with Disabilities: Access to Polling Places and Alternative Voting Methods* 8 (Oct. 2001).[12] Notably, states like Michigan and Vermont have offered curbside voting even though there is no statute or regulation expressly authorizing the practice. Mich. Comp. Laws § 168.751 (stating only that poll workers should assist a person who cannot mark his ballot); Mich. Dep't of State, *Managing Your Precinct on Election Day: Election Inspectors' Procedure Manual* 27 (Jan. 2020) (providing for curbside voting);[13] 17 Vt. Stat. § 2101 (requiring that Vermont election law "provide equal opportunity for all citizens of voting age to participate in political processes"); Vt. Off. of Sec'y of State, *Accessibility* (allowing a voter to complete her ballot in her car if she needs accommodations).[14]

In response to the unique challenges of COVID-19, many states have expanded the availability of curbside voting. Mississippi, North Carolina, Virginia, and Wisconsin, for example, have historically required polling places to facilitate curbside voting if a voter wanted to vote in person but was unable to enter the polling place due to age or physical disability. Miss. Code. § 23-15-541(2); N.C. Gen. Stat. § 163-166.9(a); Va. Code § 24.2-649(A); Wis. Stat. § 6.82(1). This November, however, all

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12 *Available at* https://bit.ly/3jcFd8S.

13 *Available at* https://bit.ly/3jaSz5C.

14 *Available at* https://bit.ly/3dBDLMn (last visited Oct. 19, 2020).

four states have expanded curbside voting to include voters at a greater risk of complications from COVID-19, those who are experiencing COVID-19 symptoms, or both. *E.g.*, Miss. Off. of Sec'y of State, *COVID-19 Election FAQs*;[15] N.C. State Bd. of Elections, *Curbside Voting* ;[16] City of Bristol, Va., *Voting in Person on Election Day*;[17] Wis. Election Comm'n, *Curbside Voting Procedures* 1 (Aug. 2020).[18] Simply put, states have been able to fulfill their duties of consistent election administration while still allowing flexibility to protect vulnerable voters.

II. There Is No Evidence That Permitting Curbside Voting Will Result In Voter Fraud, Is Impracticable, Or Raises Privacy Concerns.

Alabama's suggestion that curbside voting invites fraud is unfounded. As a general matter, voter fraud of *any* kind is exceptionally rare. The Presidential Advisory Commission on Election Integrity, established by President Trump following the 2016 election, "uncovered no evidence to support claims of widespread voter fraud." Marina Villeneuve, *Report: Trump Commission Did Not Find Widespread Voter Fraud*, Associated Press (Aug. 3, 2018).[19] For example, around 138.8 million people are estimated to have voted in 2016. U.S. Election Project, *2016 November General Election Turnout Rates*.[20] There were, according to data collected by the Heritage Foundation, only around 190 prosecutions for voter fraud from 2016

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15 *Available at* https://bit.ly/3o3SWmh (last visited Oct. 19, 2020).

16 *Available at* https://bit.ly/37fLxu9 (last visited Oct. 19, 2020).

17 *Available at* https://bit.ly/35hICyC (last visited Oct. 19, 2020).

18 *Available at* https://bit.ly/3o5OgMA.

19 *Available at* https://bit.ly/3kaZ5e3.

20 *Available at* https://bit.ly/2HcM5pR (last visited Oct. 19, 2020).

to 2018. Heritage Found., *A Sampling of Recent Election Fraud Cases from Across the United States.*[21] Even if *all* of those cases stemmed from the 2016 election, that would mean fraud occurred in only 0.00014 percent of ballots. *Cf.* Philip Bump, *There Have Been Just Four Documented Cases of Voter Fraud in the 2016 Election*, Wash. Post (Dec. 1, 2016) (finding only four confirmed cases of voter fraud related to the 2016 election).[22]

The same is true for curbside voting. The practice is longstanding and widespread—as noted, more than half of states have historically offered curbside voting in some form. Belt, *supra*; *see* Addendum. Despite Alabama's claims that curbside voting is particularly susceptible to chain-of-custody fraud because poll workers could discard a ballot if they "didn't like the way it looks," Appl. 22, there is virtually no evidence of fraud related to the practice. According to data collected by the Heritage Foundation, from 2000 through 2019, altering the vote count or illegal "assistance" at the polls accounted for just 45 cases of voter fraud, Heritage Found., *supra*, and the *Amici* States are not aware of *any* evidence suggesting that any of those charges were related to curbside voting. And, as noted, any form of voter fraud is exceedingly rare, so this percentage of a percentage is vanishingly small. So if fraudulent curbside voting exists at all, it is extremely rare. Given this lack of evidence, the district court properly found that Alabama's allegations of fraud were

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[21] *Available at* https://herit.ag/35fnoRG (last visited Oct. 19, 2020). Select each year from the "Refine by Year" dropdown.

[22] *Available at* https://wapo.st/37lqc2y.

"simply speculat[ion]." *People First of Alabama v. Merrill*, No. 2:20-CV-00619, 2020 WL 5814455, at *62 (N.D. Ala. Sept. 30, 2020).

Indeed, most jurisdictions impose rigorous criteria to ensure that poll workers do not interfere with ballots. For example, if curbside assistance is needed in Madison, Wisconsin, a poll worker must (1) recruit a second worker to accompany her outside, (2) verbally announce that she is leaving the polling place, (3) verbally announce when she returns with a ballot from a curbside voter, and (4) immediately feed the ballot into the tabulator. City of Madison, Wis., *Quick Guide to Curbside Voting on Election Day* (July 2020).[23] Other states have similar practices. *See, e.g.*, Neb. Off. of Sec'y of State, *Voting*;[24] Douglas Cnty. Election Comm'n, *Election Manual* 4 (2020).[25] This guidance demonstrates that local jurisdictions are wholly capable of directing their poll workers to ensure safe procedures. And this guidance is not particularly complicated to issue: Madison's instructions, for instance, are two pages long.

Alabama's plea that a "host of practical issues . . . would need to be resolved before a county could implement curbside voting," Appl. 6, also rings hollow. The *Amici* States are unaware of any burdensome logistical problems that jurisdictions have faced in implementing curbside voting. Both voters and poll workers have readily adapted to the practice. Voters can call their county to inquire as to whether

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23 *Available at* https://bit.ly/2T5kidh.

24 *Available at* https://bit.ly/31jV6UV.

25 *Available at* https://bit.ly/34bcZan.

curbside voting is available and make appropriate plans based on that information. *See, e.g.*, App'x 66. Polling places also can implement curbside voting with little or no additional equipment. For example, in Kansas, where polling places must provide curbside voting if requested by voters with disabilities and elderly voters, the practice requires a few "inexpensive, simple steps" that take only "an extra 10-15 minutes of preparation on Election Day but can make a big difference toward accessible voting." Kan. Off. of Sec'y of State, *Kansas Election Officer Handbook for Disability Accessibility in Voting* 13.[26] Because Alabama uses paper ballots, counties that choose to offer curbside voting would not need any extra machines or expensive equipment. And, critically, the injunction merely *permits* local jurisdictions to implement curbside voting based on their own assessments of practicability. A locality could decide to offer curbside voting to all voters, no voters, or some targeted group, like the elderly or disabled.[27] Given that the injunction merely gives local jurisdictions the choice to employ curbside voting if they deem it practicable,

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[26] *Available at* https://bit.ly/3dC380q (last visited Oct. 19, 2020).

[27] *See, e.g.*, Ariz. Off. of Sec'y of State, *Voting in This Election*, https://bit.ly/3jcZATz (last visited Oct. 19, 2020) (offering curbside voting for those unable to enter the polling location); Conn. Off. of Sec'y of State, *Voters with Disabilities Fact Sheet*, https://bit.ly/37nvYAz (last visited Oct. 19, 2020) (restricting curbside voting to those who become temporarily incapacitated after arriving at the polling place); S.C. Election Comm'n, *Voters with Disabilities Assistance at Polls*, https://bit.ly/3m0MV81 (last visited Oct. 19, 2020) (restricting curbside voting to those 65 or older and those with a disability); Va. Dep't of Elections, *Accessible Voting*, https://bit.ly/37kZhDJ (last visited Oct. 19, 2020) (same); Wis. Election Comm'n, *Curbside Voting*, https://bit.ly/2IIXMoR (last visited Oct. 19, 2020) (restricting curbside voting to those with a disability).

Alabama's "pragmatic objections are . . . irrelevant" when assessing the State's interest here. *People First of Alabama,* 2020 WL 5814455, at *54.

For the same reasons, curbside voting will not conflict with Alabama's legal obligations to "provide uniform guidance for election activities." Ala. Code § 17-1-3(a). As several states know first-hand, allowing counties the discretion to *permit* curbside voting in no way undermines that mandate. States like California and Arizona, for example, neither require nor prohibit curbside voting; they simply allow localities the flexibility to implement curbside voting if they so choose. *See* Ariz. Off. of Sec'y of State, *2019 Elections Procedures Manual* 105 (Dec. 2019);[28] Cal. Off. of Sec'y of State, *Conducting the November 3, 2020, General Election During the COVID-19 Pandemic* 7-8 (Oct. 2020).[29] But those states, just like Alabama, charge their chief election officials with ensuring uniformity. *See* Ariz. Rev. Stat. § 16-452(A) (requiring the Secretary of State to "prescribe rules to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for . . . voting"); Cal. Gov't Code § 12172.5(d) ("Secretary of State may adopt regulations to assure the uniform application and administration of state election laws.").

Finally, Alabama's claim that curbside voting implicates privacy and secrecy concerns lacks merit. Local jurisdictions can ensure that ballots remain private through proper guidance and procedures. In many states and counties, poll workers

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[28] *Available at* https://bit.ly/3o6SXFV.

[29] *Available at* https://bit.ly/2T34S9H; *see* Cal. Elec. Code § 14282(d).

must bring the ballot to the voter with a privacy shield or sleeve so that neither the worker nor any passengers can view the voter's selections. City of Madison, *supra*; Conn. Off. of Sec'y of State, *Voters with Disabilities Fact Sheet*.[30] Just as with their claims of fraud and impracticability, Alabama's contention that curbside voting presents privacy concerns is unsupported by evidence.

Because neither the balance of harms nor the public interest favors a stay, *see Nken v. Holder*, 556 U.S. 418, 435-36 (2009), this Court should deny Alabama's application.

CONCLUSION

This Court should deny the application for a stay.

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[30] *Available at* https://bit.ly/3o8TcAC (last visited Oct. 19, 2020).

Respectfully submitted,

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Addendum

Addendum: States Where Curbside Voting Is Offered At The State And/Or Local Level In 2020

Total Number of States with Curbside Voting: **33**

State	Reasons	Source(s)
Alaska*	Age Disability Illness	Alaska Div. of Elections, Special Needs Voting, https://bit.ly/346FR3w
Arizona	Age Disability Unable to enter polling place	Ariz. Rev. Stat. § 16-581(A); Ariz. Off. of Sec'y of State, Voting in This Election, https://bit.ly/3jdNvNU
California	Disability	Cal. Elec. Code § 14282(d); Cal. Off. of Sec'y of State, Assistance for Voters with Disabilities, https://bit.ly/3lVuXnm
Colorado	Any	Colo. Rev. Stat. § 1-5-706(1); Sec'y of State Elections Div., Health and Safety Guidance for the November 3, 2020 General Election 9 (Sept. 4, 2020), https://bit.ly/31jss6o
Connecticut	Unable to enter polling place	Conn. Gen. Stat. § 9-261(b)
District of Columbia	Age Disability Illness	D.C. Bd. of Elections, Voter Assistance, https://bit.ly/3o1K3cJ
Hawaii	Disability Unable to enter polling place	Haw. Off. of Elections, Voter Assistance 1 (Jul. 23, 2018), https://bit.ly/34a9UYa
Idaho	Disability Unable to enter polling place	Idaho Code § 34-1108; Idaho Off. of Sec'y of State, Idaho Election Handbook B11-3 (July 2017), https://bit.ly/3kaXPHU
Illinois	Any	10 Ill. Comp. Stat. 5/2B-35(b)
Iowa	Disability Unable to enter polling place	Iowa Code § 49.90; Iowa Off. of Sec'y of State, Accessibility, https://bit.ly/31gE368
Kansas	Age Disability	Kan. Stat. § 25-2909(d); Kan. Off. of Sec'y of State, Kansas Election Officer Handbook for Disability Accessibility in Voting 4, https://bit.ly/2IzpZOG
Michigan	COVID-19 Disability	Mich. Dep't of State, Polling Place Safety and Accessibility 7-8 (July 10, 2020), https://bit.ly/3dG3d3o
Minnesota	Unable to enter polling place	Minn. Stat. § 204C.15(2)

State	Reasons	Source(s)
Mississippi	COVID-19 Disability Unable to enter polling place	Miss. Code § 23-15-541(2); Miss. Off. of Sec'y of State, COVID-19 Elections FAQs, https://bit.ly/31giCT2
Missouri	Disability	Mo. Rev. Stat. § 115-436(2)
Montana	COVID Disability	Mont. Code Ann. § 13-13-118; Mont. Off. of Gov. Directive 4 (Aug. 6, 2020), https://bit.ly/3o1JHmp
Nebraska	Disability Unable to enter polling place	Neb. Rev. Stat. § 32-918(1)(b); Neb. Off. of Sec'y of State, Accessible Voting, https://bit.ly/3dDnDKn
Nevada	Disability Unable to enter polling place	Washoe Cnty., Nev. Registrar of Voters, Election Day Election Worker Manual: 2020 General Election 8, https://bit.ly/3dAALzC
New Hampshire	Unable to enter polling place	N.H. Dep't of State, Voting with Disabilities, https://bit.ly/3m2FTjf
New York	Disability	Telephone Interview with N.Y. State Bd. of Elections (Oct. 15, 2020)
North Carolina	Age COVID-19 Disability	N.C. Gen. Stat. § 163-166.9; Memorandum 2020-20 from Karen Brinson Bell, Exec. Dir., N.C. State Bd. of Elections 1 (Sept. 1, 2020), https://bit.ly/3o6iIqa
Ohio	COVID-19 Disability	Ohio Rev. Code Ann. § 3501.29(C); Ohio Off. of Sec'y of State, Directive No. 2020-11 (July 6, 2020), https://bit.ly/31jVNh1
Oklahoma	Disability	Okla. State Election Bd., Voter Assistance in Oklahoma, https://bit.ly/2T6hpZO
Rhode Island	Age Disability	17 R.I. Gen. Laws § 17-19-3.2
South Carolina	Age Disability	S.C. Code § 7-13-771(A)
Texas	Unable to enter polling place	Tex. Election Code § 64.009; Tex. Off. of Sec'y of State, Curbside Voting (June 2020), https://bit.ly/2Ha6oUF
Utah	COVID-19	Utah Dep't of Health, COVID-19 Guidance for Utah Election Officials 2 (May 27, 2020), https://bit.ly/358Gp8u

State	Reasons	Source(s)
Vermont	Any	Vt. Stat. Ann. tit. 17, § 2101; Vt. Off. of Sec'y of State, First Statewide Elections Directive (July 20, 2020), https://bit.ly/2T4umU0
Virginia	Age Disability	Va. Code Ann. § 24.2-649
Washington	Disability	Wash. Off. of Sec'y of State, Voters with Disabilities, https://bit.ly/3jaSdvY; Pierce Cnty., Wash., Point of Assistance, https://bit.ly/3lXoI2n
West Virginia	Age Disability Unable to enter polling place	W. Va. Off. of Sec'y of State, West Virginia Voters with Disabilities, https://bit.ly/31iBXmw
Wisconsin	Disability Unable to enter polling place	Wis. Stat. § 6.82(1); Wis. Election Comm'n, Curbside Voting, https://bit.ly/2IL627X
Wyoming	Age Disability	002.005.5 Wyo. Code R. § 5(iii)

Note: All non-dated websites were last visited October 18, 2020.

*Alaska law allows a 'personal representative' to bring a ballot to an individual with special needs outside the polling place.