



# A Herd of FRIVOLOUS Election Lawsuits Stampede Across Texas

## OVERVIEW

On September 3, 2021, four days before SB 1 was signed into law, **two lawsuits were filed in the Western District of Texas** by a host of left-leaning plaintiffs.<sup>1-3</sup>

Then, on September 7, the same day Governor Abbott signed SB 1 into law, Democrat operative Marc Elias and others **filed a third lawsuit attacking SB 1**.<sup>4</sup>

## THREE FRIVOLOUS LAWSUITS FILLED WITH FALSE CLAIMS

**1** Texas legislators enacted SB 1 with a **racist intent** to suppress the votes of persons of color in violation of §2 of the Voting Rights Act (VRA) and the 14th and 15th Amendments.<sup>5-6</sup>

**2** SB 1 unduly burdens the right to vote in violation of the 1st and 14th Amendments by **creating burdens that are not justified** by state interests.<sup>7-8</sup>

**3** SB 1 **denies ballot harvesters their freedom of speech** in violation of the 1st and 14th Amendments.<sup>9-11</sup>

**4** SB 1 **prevents people with disabilities from receiving assistance** guaranteed to them by law in violation of §208 of the VRA, Title II of the Americans with Disabilities Act (ADA), §504 of the Rehabilitation Act of 1973, and the Supremacy Clause.<sup>12-14</sup>

**5** SB 1's requirement that a voter's ID number, or last four digits of their Social Security number (if they don't have an ID), or a sworn statement (if they possess neither) be included on an application or mail-in ballot **violates §1971 of the Civil Rights Act of 1964** because such an omission is immaterial to determining whether the individual may legally vote.<sup>15</sup>

**6** SB 1's ID requirement **will keep voters with disabilities from casting eligible votes** in violation of Title II of the ADA, and §504 of the Rehabilitation Act of 1973.<sup>16</sup>

**7** SB 1's prohibition on ballot harvesting is **unconstitutionally vague** in violation of the 14th Amendment.<sup>17-18</sup>

**8** SB 1's prohibition on election officials knowingly preventing a poll watcher from observing an activity or procedure the official knows the watcher is legally entitled to observe is **unconstitutionally vague** in violation of the 14th Amendment.<sup>19</sup>

# LIKELY OUTCOME:

## These lawsuits are poised to fail.

The burdens imposed by SB 1 are minimal and justified by compelling state interests.<sup>20-21</sup>



**They fail to show that even a single legislator acted with a racist intent** in passing SB 1, let alone that the “legislature as a whole” did as required by the law, bringing into question the motivation for making such a reckless and unsubstantiated claim.<sup>22</sup>



SB 1’s ID requirements and prohibition on ballot harvesting **do not prevent voters with disabilities from voting** or receiving the assistance they are guaranteed under the law, nor does SB 1 inhibit free speech. Instead, **it protects vulnerable voters from being manipulated by ballot harvesters.**<sup>23</sup>



**The challenged provisions in SB 1 are not unconstitutionally vague** as their meaning is clear based upon the definitions already provided within SB 1, which the plaintiffs conveniently overlook.<sup>24</sup>

## BOTTOM LINE

All three lawsuits are politically motivated attacks and will likely fail in court. **All Texans, regardless of their race, will benefit from SB 1** and should be proud of the courage shown and work done by the Texas Legislature and Governor Abbott in passing this commonsense bill that makes it easy to vote, but harder to cheat.

### SOURCES:

1. SB 1(2021), L.S. 87(2), <https://capitol.texas.gov/tlodocs/872/billtext/pdf/SB00001F.pdf#navpanes=0>.
2. Plaintiffs' Complaint, Case 5:21-cv-00844, Doc. 1 (Sep. 3, 2021), <https://thefga.org/wp-content/uploads/2021/09/LA-Union-v-Abbott-SB-1-Complaint-03SEP21.pdf>.
3. Plaintiffs' Complaint, Case 1:21-cv-00780, Doc. 1 (Sep. 3, 2021), <https://thefga.org/wp-content/uploads/2021/09/OCA-v-Esparza-SB-1-03SEP21.pdf>.
4. Plaintiffs' Complaint, Case 1:21-cv-00786, Doc. 1 (Sep. 7, 2021), <https://thefga.org/wp-content/uploads/2021/09/LULAC-v-Esparza-SB-1.pdf>.
5. Id. at 49-50.
6. Plaintiffs' Complaint, Case 5:21-cv-00844, Doc. 1 (Sep. 3, 2021), pg. 58-61, <https://thefga.org/wp-content/uploads/2021/09/LA-Union-v-Abbott-SB-1-Complaint-03SEP21.pdf>.
7. Plaintiffs' Complaint, Case 1:21-cv-00786, Doc. 1 (Sep. 7, 2021), pg. 50-52, <https://thefga.org/wp-content/uploads/2021/09/LULAC-v-Esparza-SB-1.pdf>.
8. Plaintiffs' Complaint, Case 5:21-cv-00844, Doc. 1 (Sep. 3, 2021), pg. 56-58, <https://thefga.org/wp-content/uploads/2021/09/LA-Union-v-Abbott-SB-1-Complaint-03SEP21.pdf>.
9. Plaintiffs' Complaint, Case 1:21-cv-00786, Doc. 1 (Sep. 7, 2021), pg. 53-55, <https://thefga.org/wp-content/uploads/2021/09/LULAC-v-Esparza-SB-1.pdf>.
10. Plaintiffs' Complaint, Case 1:21-cv-00780, Doc. 1 (Sep. 3, 2021), pg. 55-58, <https://thefga.org/wp-content/uploads/2021/09/OCA-v-Esparza-SB-1-03SEP21.pdf>.
11. Plaintiffs' Complaint, Case 5:21-cv-00844, Doc. 1 (Sep. 3, 2021), pg. 63-66 & 70-71, <https://thefga.org/wp-content/uploads/2021/09/LA-Union-v-Abbott-SB-1-Complaint-03SEP21.pdf>.
12. Plaintiffs' Complaint, Case 1:21-cv-00786, Doc. 1 (Sep. 7, 2021), pg. 55-57, <https://thefga.org/wp-content/uploads/2021/09/LULAC-v-Esparza-SB-1.pdf>.
13. Plaintiffs' Complaint, Case 1:21-cv-00780, Doc. 1 (Sep. 3, 2021), pg. 47-55, <https://thefga.org/wp-content/uploads/2021/09/OCA-v-Esparza-SB-1-03SEP21.pdf>.
14. Plaintiffs' Complaint, Case 5:21-cv-00844, Doc. 1 (Sep. 3, 2021), pg. 61-63 & 70, <https://thefga.org/wp-content/uploads/2021/09/LA-Union-v-Abbott-SB-1-Complaint-03SEP21.pdf>.
15. Plaintiffs' Complaint, Case 1:21-cv-00780, Doc. 1 (Sep. 3, 2021), pg. 34, <https://thefga.org/wp-content/uploads/2021/09/OCA-v-Esparza-SB-1-03SEP21.pdf>.
16. Id. at 35-36.
17. Id. at 58-60.
18. Plaintiffs' Complaint, Case 5:21-cv-00844, Doc. 1 (Sep. 3, 2021), pg. 66-69, <https://thefga.org/wp-content/uploads/2021/09/LA-Union-v-Abbott-SB-1-Complaint-03SEP21.pdf>.
19. Id. at 69-70.
20. SB 1(2021), L.S. 87(2), §1.0015, pg. 2, <https://capitol.texas.gov/tlodocs/872/billtext/pdf/SB00001F.pdf#navpanes=0>.
21. See Anderson v. Celebrezze, 460 U.S. 780, 788-89 (1983).
22. Brnovich v. DNC, 141 S. Ct. 2321, 2348-50 (2021).
23. SB 1(2021), L.S. 87(2), §7.04, pg. 58-62, <https://capitol.texas.gov/tlodocs/872/billtext/pdf/SB00001F.pdf#navpanes=0>.
24. See e.g., Connally v. Gen. Constr. Co., 269 U.S. 385, 391 (1926).