

IN THE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

JEFFSON ST-HILAIRE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:23-cv-01505-TWP-TAB
	)	
COMMISSIONER OF THE INDIANA	)	
BUREAU OF MOTOR VEHICLES, in his)	)	
official capacity,	)	
	)	
Defendant.	)	

INTRODUCTION

Under federal law, the United States may authorize a noncitizen to enter and remain in the country for a period of time “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). Pursuant to this program of “humanitarian parole,” in recent years the federal government has authorized the entry of substantial numbers of Ukrainian, Cuban, Haitian, Nicaraguan, and Venezuelan nationals—as well as smaller numbers of nationals from elsewhere—based on well-documented humanitarian crises in these countries. Once they have entered the United States, parolees may then apply for employment authorization and may remain in the country for a set period of time that may be subject to renewal by the federal government.

Recognizing the vital role that the ability to drive would play in humanitarian parolees’ ability to transport themselves to and from work, to attend necessary

appointments and other obligations, to participate in social engagements, and to become fully immersed in their new communities—as well as the overarching importance of the ability to present a well-recognized form of state-issued identification—during the 2023 legislative session the Indiana General Assembly enacted House Enrolled Act 1050 (“H.E.A. 1050”). H.E.A. 1050, which was signed into law and took effect on May 4, 2023, authorizes the issuance of driver’s licenses, learner’s permits, identification cards, vehicular registrations, and certificates of title to certain persons on humanitarian parole who are living in Indiana. However, it limits these benefits to “citizen[s] or national[s] of Ukraine or [persons who] last w[ere] a habitual resident of Ukraine.” These benefits remain unavailable to persons granted parole from Cuba, Haiti, Nicaragua, Venezuela, or any other country. And this is so notwithstanding the fact that they have the exact same federal status—humanitarian parolee—as Ukrainians now eligible to receive driver’s licenses or identification cards.

The plaintiffs are all Haitian nationals admitted to the United States on humanitarian parole who would greatly benefit from the ability to receive Indiana driver’s licenses, learner’s permits, or identification cards—*and who would be eligible for these benefits if they happened to be from Ukraine rather than Haiti*. This is national-origin discrimination, pure and simple. Given that the Indiana Bureau of Motor Vehicles receives federal financial assistance, H.E.A. 1050 therefore violates Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.* It is also subject to, and fails, strict scrutiny

under the Equal Protection Clause of the Fourteenth Amendment, although not even a rational basis exists for the discrimination occasioned by the statute. And, even though H.E.A. 1050 establishes eligibility requirements for a state benefit, Indiana has no authority to create its own definition of a federal immigration status or to classify noncitizens differently than does the United States. The statute is therefore also preempted by federal law.

The plaintiffs are exceedingly likely to prevail on the merits of their legal claims. All other requirements for the issuance of preliminary relief are also met, and the discrimination mandated by H.E.A. 1050 should be enjoined. The defendant should be prohibited from enforcing its discriminatory classification scheme and enjoined to allow persons on humanitarian parole from countries other than Ukraine to obtain driver's licenses, learner's permits, identification cards, vehicular registrations, and certificates of titles on the same terms and conditions that persons on humanitarian parole from Ukraine may do so. This injunction should be issued without bond.

## STATEMENT OF FACTS

### **I. Humanitarian Parole**

#### **A. Background to Humanitarian Parole**

The Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, *et seq.*, sets forth conditions under which a foreign national may be admitted to and remain in the United States. As is relevant here, the INA provides (with certain exceptions) that "[t]he Attorney

General may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States.” 8 U.S.C. § 1182(d)(5)(A). This form of immigration relief is known as “humanitarian parole.”

United States Citizenship and Immigration Services (“USCIS”), the federal agency primarily responsible for administering the program, describes humanitarian parole as follows:

Parole allows an individual, who may be inadmissible for admission into the United States, to be paroled into the United States for a temporary period. . . . An individual who is paroled into the United States has not been formally admitted into the United States for purposes of immigration law. . . . If authorized, [USCIS] will specify the duration of parole for a temporary period of time to accomplish the purpose of the parole. . . . Parole ends on the date the parole period expires or when a parolee departs the United States or acquires an immigration status, whichever occurs first. In some cases, [USCIS] may place conditions on parole, such as reporting requirements.

U.S. Citizenship & Immigration Servs., *Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States: What is Parole?*, at [https://www.uscis.gov/humanitarian/humanitarian\\_parole](https://www.uscis.gov/humanitarian/humanitarian_parole).<sup>1</sup> If deemed appropriate by USCIS, persons on humanitarian parole may receive temporary employment authorization, which allows

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<sup>1</sup> This Court may, of course, take judicial notice of public information available through government webpages. See, e.g., *Beley v. City of Chicago*, 2015 WL 684519, at \*2 n.1 (N.D. Ill. Feb. 17, 2015); *Bova v. U.S. Bank, N.A.*, 446 F. Supp. 2d 926, 930 n.2 (S.D. Ill. 2006). All internet citations in this brief were last visited on September 1, 2023.

them to work while in the United States. *Id.*<sup>2</sup>

USCIS publishes a nonexhaustive list of circumstances under which it might approve a request for humanitarian parole, as well as the description of the documentation necessary to support a request. This list includes, for instance, persons seeking medical treatment in the United States or to be an organ donor to an individual in the United States, persons seeking to support a seriously or terminally ill relative in the United States, persons seeking entry to the United States to attend a funeral or settle the affairs of a deceased relative in the United States, persons seeking protection from targeted or individualized harms, or persons seeking to participate in legal proceedings in the United States. See U.S. Citizenship & Immigration Servs., *Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole Requests*, at <https://www.uscis.gov/humanitarian/humanitarian-parole/guidance-on-evidence-for-certain-types-of-humanitarian-or-significant-public-benefit-parole-requests>.

Persons seeking humanitarian parole must generally have a financial supporter “who agrees to provide financial support to the beneficiary while they are in the United

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<sup>2</sup> While USCIS has primary responsibility for overseeing humanitarian parole, U.S. Customs and Border Protection (“CBP”) has authority to issue humanitarian parole if the requesting person is at a U.S. port of entry. See U.S. Customs & Border Protection, *Humanitarian Parole*, at [https://helpspanish.cbp.gov/s/article/Article-1639?language=en\\_US](https://helpspanish.cbp.gov/s/article/Article-1639?language=en_US). And U.S. Immigration and Customs Enforcement (“ICE”) “has primary jurisdiction over an individual seeking parole who is in removal proceedings in the United States or who has previously been removed or deported.” U.S. Citizenship & Immigrations Servs., *Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States*, at [https://www.uscis.gov/humanitarian/humanitarian\\_parole](https://www.uscis.gov/humanitarian/humanitarian_parole). The distinction between the various subagencies that might oversee humanitarian parole is not consequential to this litigation and is therefore not discussed further.

States for the duration of the parole authorization period,” although the parolee may also demonstrate that they are financially self-sufficient. U.S. Citizenship & Immigration Servs., *Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States: The Need for a Financial Supporter*, at [https://www.uscis.gov/humanitarian/humanitarian\\_parole](https://www.uscis.gov/humanitarian/humanitarian_parole).

### **B. Humanitarian Parole through Special Programs**

Additionally, the federal government has established several “special parole programs” through which foreign nationals who meet certain requirements may obtain placement on humanitarian parole.

For instance, the Cuban Family Reunification Parole Program (established in 2007) and the Haitian Family Reunification Parole Program (established in 2014) allow certain United States citizens and lawful permanent residents to apply for parole for their family members in Cuba and Haiti, respectively.<sup>3</sup> The Central American Minors Program (established in 2014) allows certain qualified children under the age of 21 from El Salvador, Guatemala, and Honduras, as well as their family members, to obtain placement on humanitarian parole. See U.S. Dep’t of Homeland Security, Notice of Enhancements to the Central American Minors Program, 88 Fed. Reg. 21694 (Apr. 11,

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<sup>3</sup> See U.S. Citizenship & Immigration Servs., *The Cuban Family Reunification Parole Program*, at <https://www.uscis.gov/humanitarian/humanitarian-parole/the-cuban-family-reunification-parole-program>; U.S. Citizenship & Immigration Servs., *The Haitian Family Reunification Parole (HFRP) Program*, at <https://www.uscis.gov/humanitarian/humanitarian-parole/the-haitian-family-reunification-parole-hfrp-program>.

2023). The Filipino World War II Veterans Parole Program (established in 2016) allows some Filipino World War II veterans and their U.S. citizen or lawful permanent resident spouses to apply for parole for certain family members. See U.S. Citizenship & Immigration Servs., *Filipino World War II Veterans Parole Program*, at <https://www.uscis.gov/humanitarian/humanitarian-parole/filipino-world-war-ii-veterans-parole-program>. And the Immigrant Military Members and Veterans Initiative allows certain noncitizen military service members and their qualifying family members to seek humanitarian parole. See U.S. Citizenship & Immigrations Servs., *Discretionary Options for Military Members, Enlistees and their Families: Immigrant Military Members and Veterans Initiative (IMMVI)*, at <https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families>.

In recent years, the federal government has established additional special parole programs to respond to specific international humanitarian crises.

Upon the United States military's withdrawal from Afghanistan in 2021, for instance, as a part of "Operation Allies Welcome" the federal government authorized humanitarian parole for certain vulnerable Afghan nationals, including those who provided assistance to the United States during the course of its military presence in that country. See U.S. Dep't of Homeland Security, *Operation Allies Welcome*, at <https://www.dhs.gov/allieswelcome>. Additionally, on April 21, 2022, following Russia's invasion of Ukraine, the federal government announced—as a part of its "Uniting for Ukraine"

initiative—a program whereby Ukrainian nationals fleeing Russia’s invasion could apply for humanitarian parole. See U.S. Citizenship & Immigration Servs., *Uniting for Ukraine*, at <https://www.uscis.gov/ukraine>. Parole under this program is granted for up to two years, and program participants must have a supporter in the United States who agrees to provide them with financial support for the duration of their parole period. *Id.*

And in October 2022, the U.S. Department of Homeland Security announced a new humanitarian parole program—“modeled on the successful *Uniting for Ukraine* parole process”—for nationals of Venezuela who seek safe haven within the United States due to the conditions in their country. See Notice, 87 Fed. Reg. 63507 (Oct. 19, 2022) (Dkt. 24-1); see also Notice, 88 Fed. Reg. 1279 (Jan. 9, 2023) (Dkt. 24-2) (program update). In January 2023, this program was extended to nationals of Cuba, Haiti, and Nicaragua. See Notice, 88 Fed. Reg. 1243 (Jan. 9, 2023) (Haitians) (Dkt. 24-3); Notice, 88 Fed. Reg. 1255 (Jan. 9, 2023) (Nicaraguans) (Dkt. 24-4); Notice, 88 Fed. Reg. 1266 (Jan. 9, 2023) (Cubans) (Dkt. 24-5). Under this “CHNV Parole Program,” the United States may grant parole status to up to 30,000 individuals each month. See U.S. Citizenship & Immigration Servs., *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, at <https://www.uscis.gov/CHNV>. Like parole through the “Uniting for Ukraine” initiative, parole under this program is granted for a period of up to two years and parolees must have a financial supporter in the United States. *Id.*

In establishing the CHNV Parole Program, the federal government relied on



specific findings concerning the humanitarian crises necessitating each country's inclusion in the program. In Venezuela, for instance, it described the manner in which "[a] complex political, humanitarian, and economic crisis; the widespread presence of non-state armed groups; crumbling infrastructure; and the repressive tactics of Nicolás Maduro have caused nearly 7 million Venezuelans to flee their country." 87 Fed. Reg. 63507, 63509 (Oct. 19, 2022) (Dkt. 24-1 at 3). In Haiti, it described "a series of events, including natural disasters, economic stagnation, pervasive hunger, gang violence, and political assassinations that have devastated the country" and have "led tens of thousands of Haitians to lose hope and attempt to migrate." 88 Fed. Reg. 1243, 1246 (Jan. 9, 2023) (Dkt. 24-3 at 4). In Nicaragua, it described "political, economic, and humanitarian crises" that have been caused or exacerbated by the "repressive tactics" of Daniel Ortega and his political party, "including abusive legislation, intimidation, harassment, arbitrary detention, and prosecution of human rights defendants and journalists." 88 Fed. Reg. 1255, 1258 (Jan. 9, 2023) (Dkt. 24-4 at 4). And in Cuba, it described the manner in which "deteriorating economic conditions"—evidenced by mass poverty, food shortages, and rolling blackouts—and "political repression" have "increasingly drive[n] Cubans out of their country." 88 Fed. Reg. 1266, 1270 (Jan. 9, 2023) (Dkt. 24-5 at 5).

## **II. Indiana House Enrolled Act 1050**

On May 4, 2023, the Governor of Indiana signed into law House Enrolled Act 1050 ("H.E.A. 1050").

Section 20 of H.E.A. 1050, which took immediate effect and which is codified at Indiana Code § 9-14-8-3.5, provides in its entirety as follows:

The bureau of motor vehicles shall adopt rules under IC 4-22-2, including emergency rules in the manner provided under IC 4-22-2-37.1, necessary to implement the administration of the following:

- (1) Driver's licenses, permits, or identification cards for individuals granted parole.
- (2) Registration and certificates of title for motor vehicles of individuals granted parole.

Section 14 of H.E.A. 1050, which is codified at Indiana Code § 9-13-2-78, similarly defines "Indiana resident"—a precondition to receiving a driver's license, learner's permit, or identification card, *see* Ind. Admin. Code tit. 140, r. 7-1.1-3(a)—to include "[a] person who is living in Indiana and has been granted parole."

Without more, the plaintiffs would not take issue with either Section 20 or Section 14 of H.E.A. 1050. But Section 17, now codified at Indiana Code § 9-13-2-121.5, defines "parole" to include *only a subset* of persons granted humanitarian parole by the federal government:

"Parole" means temporary legal presence in the United States under 8 U.S.C. 1182(d)(5) granted to an individual who:

- (1) is a citizen or national of Ukraine or last was a habitual resident of Ukraine; and
- (2) meets the criteria established under Section 401(a) of the Additional Ukraine Supplemental Appropriations Act (Public Law 117-128) as

in effect on January 1, 2023.<sup>4</sup>

Consistent with its duties under Section 20, promptly upon the passage of that statute the Indiana Bureau of Motor Vehicles promulgated an emergency rule, mirroring the requirements of H.E.A. 1050, that allows noncitizens who “hav[e] been granted parole as defined in IC 9-13-2-121.5” to obtain a driver’s license, learner’s permit, or identification card and to register or title a motor vehicle. (Dkt. 1-1).

In other words, despite the fact that nationals of many countries are eligible for and are granted humanitarian parole by the federal government, H.E.A. 1050 provides a pathway for nationals of only one country—Ukraine—to obtain state-issued driver’s licenses, learner’s permits, or identification cards or to register or title vehicles.<sup>5</sup>

### **III. The named plaintiffs and the inability of humanitarian parolees in Indiana to transport themselves to work, school, required appointments, or anywhere else**

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<sup>4</sup> Section 401(a) of the Additional Ukraine Supplemental Appropriations Act simply establishes Ukrainians’ eligibility for certain federal assistance if (a) they are paroled into the United States between February 24, 2022 and September 30, 2023 (or are paroled into the United States after that period but are the family member of an individual who was paroled into the United States during that period) and (b) their parole has not been terminated. *See* Pub. L. No. 117-128, § 401(a), 136 Stat. 1211, 1218 (2022).

<sup>5</sup> The limited number of Afghans paroled through Operation Allies Welcome are eligible under federal law to receive REAL ID-compliant driver’s licenses or identification cards. *See* Pub. L. No. 117-43, § 2502(b)(3), 135 Stat. 344, 377 (2021). The plaintiffs have defined the putative class to exclude persons eligible for a REAL ID. (Dkt. 9 at 1-2 [¶ 2]). Foreign nationals who have not been paroled through Operation Allies Welcome are not eligible for REAL ID-compliant identification. *See, e.g.,* U.S. Citizenship & Immigration Servs., *Frequently Asked Questions About Uniting for Ukraine: Real ID*, at <https://www.uscis.gov/humanitarian/uniting-for-ukraine/frequently-asked-questions-about-uniting-for-ukraine>; U.S. Citizenship & Immigration Servs., *Frequently Asked Questions About the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans: Real ID*, at <https://www.uscis.gov/humanitarian/frequently-asked-questions-about-the-processes-for-cubans-haitians-nicaraguans-and-venezuelans>.

### A. The named plaintiffs

Jeffson St. Hilaire is a Haitian national who was admitted to the United States on humanitarian parole on March 3, 2023. (Dkt. 1 at 9 [¶ 38]).<sup>6</sup> The remaining plaintiffs—Merlange and Evenks Meme, Nadege Jean Marie, and L.M.D.M.—are part of the same family unit and are Haitian nationals who were admitted on humanitarian parole in January 2023. (*Id.* at 11 [¶ 50]). All five plaintiffs have been admitted to the United States pursuant to the CHNV Parole Program for an initial two-year period that expires in early 2025, although their placement on parole may be subject to renewal at that time. (*Id.* at 9, 11 [¶¶ 39, 50]).

Each of the adult plaintiffs received their employment authorization from the federal government in May 2023, and L.M.D.M. received hers in July 2023. (Dkts. 1-3, 1-6 & 1-7). Given that she is nine years old, L.M.D.M. will of course not be working, although, for persons on humanitarian parole, obtaining employment authorization is necessary to receive a social security card. (Dkt. 1 at 12 [¶ 54]).

The adult plaintiffs have all obtained jobs. (*Id.* at 9, 12 [¶¶ 42, 55]). They live in rural communities—Mr. St-Hilaire lives in Hancock County and the remaining plaintiffs live in Spencer County—where public transportation is not available and where the dominant form of transportation for all persons (and the only form of transportation for

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<sup>6</sup> Dkt. 1 is the plaintiffs' complaint in this case. This complaint was verified and therefore "is . . . the equivalent of an affidavit" and may be relied on as evidence at the present stage. *See Beal v. Beller*, 847 F.3d 897, 901 (7th Cir. 2017); *Ford v. Wilson*, 90 F.3d 245, 246-47 (7th Cir. 1996).

many persons) is through the use of personal vehicles. (*Id.* at 9-10, 12 [¶¶ 42, 55]). To travel to and from his job, Mr. St-Hilaire has relied exclusively on his ability to obtain rides from his co-workers. (*Id.* at 10 [¶ 43]). While he is grateful for this assistance, it means that his ability to travel to and from his job generally depends on the schedules of others and he very much wishes he did not have to rely on this assistance. (*Id.*). Ms. Meme, Mr. Meme, and Ms. Jean Marie have been forced to rely on their ability to obtain rides from family members, which requires extraordinary effort each week. (*Id.* at 12 [¶ 56]). Not only do they have to ensure that their schedules align, but one of their family members is forced to spend a significant portion of each week simply driving them to and from their full-time jobs. (*Id.*). Like Mr. St-Hilaire, they very much wish they did not have to rely on this assistance. (*Id.*).

In addition to being able to transport themselves to and from their jobs without requiring assistance, the adult plaintiffs all wish to be able to transport themselves to run errands, to social events, and to otherwise explore Indiana. (*Id.* at 10, 12-13 [¶¶ 44, 57]). In fact, as with most persons, obtaining a driver's license and the resulting ability to drive would allow them to obtain a level of self-sufficiency and independence that they currently are unable to experience in the United States. (*Id.*). While the plaintiffs do not currently own vehicles, they have access to vehicles owned by the persons sponsoring their parole that they would be able to use regularly. (*Id.* at 10, 13 [¶¶ 45, 58]).

After obtaining his work authorization, Mr. St-Hilaire attempted to obtain his

learner's permit from the Indiana Bureau of Motor Vehicles. (*Id.* at 10 [¶ 46]). To do so, he took and passed both a written "knowledge" examination and a visual screening. (*Id.* at 10 [¶¶ 47-48]). After doing so, however, he received a letter from the Indiana Bureau of Motor Vehicles explaining that he is ineligible to receive a learner's permit as a result of H.E.A. 1050. (*Id.* at 10-11 [¶ 48]; Dkt. 1-4). The other adult plaintiffs similarly desire to obtain first their learner's permits and then their driver's licenses although they are not permitted to do so as a result of H.E.A. 1050. (Dkt. 1 at 11, 13 [¶¶ 49, 59]).

L.M.D.M.'s family also desires that she obtain a state-issued identification card. (*Id.* at 13 [¶ 60]). They are aware that this is a form of identification that is well recognized by businesses, government officials, and others throughout Indiana, and feel that it is especially important for L.M.D.M. to have this form of identification insofar as they live in a rural community where persons may not be familiar with, or may be skeptical of, foreign passports or work authorizations. (*Id.* [¶ 61]).

**B. The effect on humanitarian parolees of the inability to drive or obtain state-issued identification**

"Automobiles occupy a central place in the lives of most Americans, providing access to jobs, schools, and recreation as well as to the daily necessities of life." *Coleman v. Watt*, 40 F.3d 255, 260-61 (8th Cir. 1994). The importance of driving "as a means to earn a living and participate in the activities of daily life is particularly pronounced in Indiana, where public transportation options are limited, even in the state's largest cities." *Washington v. Marion Cnty. Prosecutor*, 264 F. Supp. 3d 957, 976 (S.D. Ind. 2017), *remanded*

*in light of statutory amendments*, 916 F.3d 676 (7th Cir. 2019). According to data maintained by the U.S. Department of Transportation, as of 2018 nearly 83% of employed Hoosiers commuted to work by driving alone. (Dkt. 24-7 at 2). This number surely rises in rural communities in which services are dispersed: the entirety of Spencer County, where three of the adult plaintiffs reside, has fewer than 20,000 persons. *See* U.S. Census Bureau, *QuickFacts: Spencer County, Ind.*, at <https://www.census.gov/quickfacts/fact/table/spencer-countyindiana/PST045222>.

But the inability to drive is likely felt even more acutely by persons on humanitarian parole. These persons likely have a host of necessary appointments that other persons do not, for instance, to obtain medical care that was unavailable in their countries of origin or to meet with various governmental officials. (Dkt. 24-8 at 6 [¶ 19]). Many also have young children, such that the ability to drive in case of emergencies can be crucial. (*Id.*). On top of all this, insofar as persons on humanitarian parole are unfamiliar with Indiana and have few connections in the United States, without the ability to drive they run the risk of living a largely insular existence where they cannot explore Indiana, transport themselves to social gatherings, or become fully immersed in their new communities—or even access their preferred faith communities. (*Id.* at 6-7 [¶ 20]).

And even persons who may not be able to drive, or to immediately drive, frequently desire to obtain Indiana-issued identification cards. This form of identification

is well recognized throughout Indiana and can assist persons on humanitarian parole in opening bank accounts, cashing checks, or entering government buildings, or may be used for a wide array of other activities. (*Id.* at 7-8 [¶ 24]). Many individuals or businesses may not have familiarity with, or may not accept as identification, work authorizations issued to a noncitizen or foreign passports, which represent the forms of identification most often possessed by persons on humanitarian parole. (*Id.*).

### THE PRELIMINARY INJUNCTION STANDARD

A court must weigh several factors in the preliminary injunction determination:

- (1) whether the plaintiff has established a prima facie case, thus demonstrating at least a reasonable likelihood of success at trial;
- (2) whether the plaintiff's remedies at law are inadequate, thus causing irreparable harm pending the resolution of the substantive action if the injunction does not issue;
- (3) whether the threatened injury to the plaintiff outweighs the threatened harm the grant of the injunction may inflict on the defendant; and
- (4) whether, by the grant of the preliminary injunction, the public interest would be disserved.

*See, e.g., Baja Contractors, Inc. v. City of Chicago*, 830 F.2d 667, 675 (7th Cir. 1987). The heart of this test, however, is “a comparison of the likelihood, and the gravity of two types of error: erroneously granting a preliminary injunction, and erroneously denying it.” *Gen. Leaseways, Inc. v. Nat'l Truck Leasing Ass'n*, 744 F.2d 588, 590 (7th Cir. 1984). Thus, “the more likely [the preliminary injunction movant] is to win, the less the balance of harms



must weigh in his favor.” *Turnell v. CentiMark Corp.*, 796 F.3d 656, 662 (7th Cir. 2015).

## ARGUMENT

### I. The plaintiffs are likely to prevail on the merits of their legal claims

#### A. H.E.A. 1050 violates Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 provides, in relevant part, as follows:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000d. The phrase “program or activity” is defined in the broadest possible terms to include “all the operations of . . . a department, agency, special purpose district, or other instrumentality of a State . . . any part of which is extended Federal financial assistance.” 42 U.S.C. § 2000d-4a(1)(A); *see also Schroeder v. City of Chicago*, 927 F.2d 957, 962 (7th Cir. 1991) (interpreting a materially identical provision of the Rehabilitation Act). The Indiana Bureau of Motor Vehicles (“BMV”) is self-evidently a “department” or “agency” of a state, and it is also a recipient of federal financial assistance. *See Ind. Bureau of Motor Vehicles, Title VI/ADA*, at <https://www.in.gov/bmv/resources/title-viada> (“As a recipient of federal-aid funding, the BMV is committed to nondiscrimination in all its programs and activities.”); *see also, e.g., In re J.S.*, 48 N.E.3d 356, 363-66 (Ind. Ct. App. 2015) (detailing the federal funding received by the BMV for the operation of its commercial driver’s license program), *trans. denied*.

The only issue, therefore, is whether H.E.A. 1050 discriminates against the

plaintiffs on the basis of their national origin. Because Title VI “directly reaches only instances of intentional discrimination,” *Alexander v. Sandoval*, 532 U.S. 275, 281 (2001) (quoting *Alexander v. Choate*, 469 U.S. 287, 293 (1985)) (alteration omitted), jurisprudence resolving claims brought under this and other nondiscrimination statutes focuses most frequently on whether a plaintiff has adduced sufficient evidence to demonstrate discriminatory intent. See, e.g., *Brewer v. Bd. of Trs. of Univ. of Ill.*, 479 F.3d 908, 915-923 (7th Cir. 2007). The case at bar, however, is the rare circumstances in which a state has been “foolish enough to say the quiet part out loud.” *Thompson v. Alabama*, 65 F.4th 1288, 1320 (11th Cir. 2023) (Rosenbaum, J., concurring in part and dissenting in part). The national-origin discrimination occasioned by H.E.A. 1050 is self-evident.

By its terms, the statute requires the BMV to issue driver’s licenses and identification cards to persons on humanitarian parole who are “citizen[s] or national[s] of Ukraine” or last were “a habitual resident of Ukraine,” Ind. Code § 9-13-2-121.5, but does not allow for the issuance of licenses or identification cards to persons from any other country. In other words, if any of the plaintiffs were Ukrainian, they would be entitled to receive an Indiana driver’s license or identification card; because they are Haitians, they are not. “If this is not national origin discrimination,” it is not clear “what is.” *Exodus Refugee Immigration, Inc. v. Pence*, 165 F. Supp. 3d 718, 735 (S.D. Ind.), *aff’d*, 838 F.3d 902 (7th Cir. 2016).<sup>7</sup>

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<sup>7</sup> To be sure, H.E.A. 1050 only allows for the issuance of Indiana driver’s licenses and

The plaintiffs are exceedingly likely to prevail on their Title VI claim, and this Court need proceed no further.

**B. H.E.A. 1050 violates the Equal Protection Clause of the Fourteenth Amendment**

1. H.E.A. 1050 is subject to strict scrutiny under equal-protection analysis

The Equal Protection Clause of the Fourteenth Amendment “is essentially a direction that all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (citing *Plyler v. Doe*, 457 U.S. 202, 216 (1982)).<sup>8</sup> Under this provision, “[t]he general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest.” *Id.* at 440 (citing cases). This general rule, however, gives way

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identification cards to certain Ukrainians on humanitarian parole: those who were paroled into the United States between February 24, 2022 and September 30, 2023 (or who are spouses or children of parolees admitted during that period or parents, guardians, or caregivers unaccompanied children). *See* Ind. Code § 9-13-2-121.5(2); Pub. L. 117-128, § 401(a), 136 Stat. 1211, 1218 (2022). All of the plaintiffs entered the United States on humanitarian parole during this time period, and so this limitation is not relevant here. Even were that not so, however, certainly Indiana could not contend that H.E.A. 1050 does not discriminate in favor of persons from Ukraine by virtue of the fact that the statute relies in part on eligibility criteria in a federal appropriations bill that provides assistance to persons from Ukraine.

<sup>8</sup> In *Plyler*, the Supreme Court held unequivocally that undocumented immigrants are “persons” within the meaning of the Fourteenth Amendment and are thus entitled to the protection of the Constitution’s due-process and equal-protection guarantees. *See* 457 U.S. at 210-16. While the Court in that case employed a lower level of scrutiny when confronted with discrimination based on individuals’ immigration status, there are two fundamental differences here. First, humanitarian parolees such as the plaintiffs, of course, although not citizens or permanent residents, are lawfully present in the United States. And second, the *Plyler* Court was not forced to confront the situation encountered here where the government is facially discriminating between two groups with the same immigration status based on national origin.

when a law “impermissibly interferes with the exercise of a fundamental right or operates to the peculiar disadvantage of a suspect class.” *Mass. Bd. of Ret. v. Murgia*, 427 U.S. 307, 312 (1976) (footnotes omitted).

Classifications based on race, national origin, or alienage “are inherently suspect and subject to close judicial scrutiny.” *Graham v. Richardson*, 403 U.S. 365, 372 (1971). This is so because “[t]hese factors are so seldom relevant to the achievement of any legitimate state interest that laws grounded in such considerations are deemed to reflect prejudice and apathy—a view that those in the burdened class are not as worthy or deserving as others.” *City of Cleburne*, 473 U.S. at 440. Thus, “[i]f a statute or municipal ordinance classifies by race, alienage, or national origin, [courts] subject the legislative action to strict scrutiny and it will be sustained only if it is suitably tailored to serve a compelling state interest.” *Vision Church v. Vill. of Long Grove*, 468 F.3d 975, 1000 (7th Cir. 2006) (internal quotation and alterations omitted).

The question of whether a statute classifies on the basis of national origin for purposes of the Equal Protection Clause is identical to the question of whether it classifies on the basis of national origin for purposes of Title VI. *See, e.g., Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 143 S. Ct. 2141, 2156 n.2 (2023). As demonstrated above, and as is apparent from the face of H.E.A. 1050, the challenged statute discriminates on the basis of national origin.

2. Under any level of scrutiny, H.E.A. 1050 is unconstitutional

Strict scrutiny, of course, requires a defendant to demonstrate that the “classifications ‘are narrowly tailored measures that further compelling governmental interests.’” *Johnson v. California*, 543 U.S. 499, 505 (2005) (citation omitted). This is a rigorous standard: the Supreme Court has underscored that, while the scrutiny is “strict in theory,” it is “usually fatal in fact” inasmuch as “[o]nly rarely are statutes sustained in the face of strict scrutiny.” *Bernal v. Fainter*, 467 U.S. 216, 219 n.6 (1984) (internal quotations and citation omitted). Ultimately, however, determining the level of scrutiny to be applied is strictly an academic matter, for the discrimination occasioned by H.E.A. 1050 is not justified by a legitimate governmental interest, let alone a compelling one.

What possible interest does Indiana have in distinguishing between humanitarian parolees from Ukraine and those from other countries? Certainly Ukraine is in the midst of a humanitarian crisis that justifies the federal government exercising its parole authority to admit persons fleeing the war in that country. But the federal government has also extended parole to non-Ukrainians based on similar determinations about crises in their countries. (*See supra* at 7-9). And these are determinations for the federal government, not Indiana, to make. *See, e.g., Arizona v. United States*, 567 U.S. 387, 394 (2012) (“The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens.”); *De Canas v. Bica*, 424 U.S. 351, 354-55 (1976) (“Power to regulate immigration is unquestionably exclusively a federal power.”) (citing cases), *superseded by statute on other grounds as stated in Chamber of Commerce of U.S.*

*v. Whiting*, 563 U.S. 582, 588-89 (2011).

By extending to Ukrainians the ability to obtain state-issued driver's licenses and identification cards, Indiana has appropriately recognized the importance of this form of identification in enabling persons admitted on humanitarian parole to work, access health care and other necessary resources, socialize, and fully immerse themselves in American society. But none of this is unique to Ukrainians. Nationals of other countries, such as the plaintiffs, are also eligible to work in the United States. They also need to travel to obtain health care or groceries, to attend a wide variety of appointments and other obligations, or to transport young children to and from school. They would also benefit from the ability to present a widely recognized form of identification and, more generally, from the ability to fully immerse themselves in American society. The bottom line is that *all* humanitarian parolees, regardless of their nationality, have lawfully entered the United States following the federal government's determination that their entry is justified by "urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

That being the case, Indiana has no basis whatsoever for distinguishing between Ukrainians and persons from other countries: as the Supreme Court long ago held in concluding that the failure to provide public education to undocumented children violates the Equal Protection Clause, "[t]he States enjoy no power with respect to the classification of aliens." *Plyler*, 457 U.S. at 225. And certainly under any standard the

“bare . . . desire to harm a politically unpopular group cannot justify disparate treatment of that group.” *United States v. Windsor*, 570 U.S. 744, 770 (2013) (quoting *U.S. Dep’t of Agric. v. Moreno*, 413 U.S. 528, 534-35 (1973)).

In *Arizona Dream Act Coalition v. Brewer* (“ADAC”), 855 F.3d 957 (9th Cir. 2017), the Ninth Circuit addressed the constitutionality of an Arizona policy denying driver’s licenses to recipients of deferred action under the Deferred Action for Childhood Arrivals (“DACA”) program while allowing other groups of noncitizens to obtain licenses. *Id.* at 962-63. Given the irrationality of six different asserted state interests—none of which appears to be even arguably applicable here—the court concluded that it was unnecessary to “reach what standard of scrutiny applies” for the policy “may well fail even rational basis review.” *Id.* at 969-70. While ADAC ultimately rested its holding on preemption grounds, its equal-protection observations are even more applicable here: the plaintiffs here were granted the exact same form of immigration relief as Ukrainians entitled to receive an Indiana driver’s license or identification card.

As noted, there is no need to review the discrimination mandated by H.E.A. 1050 under any standard other than strict scrutiny, and this discrimination is certainly not supported by the requisite state interest.<sup>9</sup> But it is not even supported by a legitimate

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<sup>9</sup> Even if Indiana were able to advance a proper state interest, H.E.A. 1050 still must be appropriately tailored to that interest. *See, e.g., Vision Church*, 468 F.3d at 1000. The plaintiffs do not yet have the benefit of Indiana’s articulation of its asserted interest(s). They reserve their right to contend that H.E.A. 1050 is not appropriately tailored to any interests advanced by Indiana.

state interest and violates equal protection even under low-level scrutiny.

**C. H.E.A. 1050 is preempted by federal law and by the federal government's authority to regulate immigration**

The discriminatory classification mandated by H.E.A. 1050 cannot stand for a third reason: it is preempted by federal law and by the federal government's authority to regulate immigration.

Preemption claims most frequently require a determination as to whether state action has been expressly preempted by an act of Congress, whether Congress's regulation of a given field is so pervasive that it "displace[s] state law altogether," or whether state law conflicts with federal law (including where a challenged state law "stands as an obstacle" to Congress's objectives). *See, e.g., Arizona*, 567 U.S. at 398-400. But application of these standards is unnecessary here, for the Supreme Court has long held that "[s]tate laws which impose discriminatory burdens upon the entrance or residence of aliens lawfully within the United States conflict with th[e] constitutionally derived federal power to regulate immigration" and are "invalid." *Takahashi v. Fish & Game Comm'n*, 334 U.S. 410, 419 (1948); *see also Toll v. Moreno*, 458 U.S. 1, 11 (1982) (same). In other words, "[t]he States enjoy no power with respect to the classification of aliens." *Plyler*, 457 U.S. at 225.

But that is precisely what Indiana has done through H.E.A. 1050. That statute establishes an immigration classification independent of federal standards, defining "parole" to include only Ukrainians granted humanitarian parole, while excluding from



this definition individuals from all other countries even though they have the exact same federal status as Ukrainians. *See* 8 U.S.C. § 1182(d)(5). In creating this distinction, Indiana “arrang[ed] federal classifications in the way it prefers, . . . impermissibly assum[ing] the federal prerogative of creating immigration classifications according to its own design.” *ADAC*, 855 F.3d at 973-74. This is improper.

As noted, the “[p]ower to regulate immigration is unquestionably exclusively a federal power.” *De Canas*, 424 U.S. at 354; *see also, e.g., Hines v. Davidowitz*, 312 U.S. 52, 68 (1941); *Truax v. Raich*, 239 U.S. 33, 42 (1915); *Chy Lung v. Freeman*, 92 U.S. 275, 280 (1875). This “constitutional power, whether latent or exercised,” *De Canas*, 424 U.S. at 354, derives from the grant to the federal government of the authority to “establish a uniform Rule of Naturalization” and to “regulate Commerce with foreign Nations,” U.S. Const. art. I, § 8, cl. 3, 4, as well as from the federal government’s “inherent power as sovereign,” *Arizona*, 567 U.S. at 395; *Toll*, 458 U.S. at 10. The United States has exercised this authority in part through the enactment and enforcement of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*, which provides a comprehensive framework governing the admission, removal, and presence of noncitizens. *See, e.g., Chamber of Commerce*, 563 U.S. at 587; *Exodus Refugee Immigration, Inc. v. Pence*, 838 F.3d 902, 903 (7th Cir. 2016) (“The regulation of immigration to the United States . . . is a federal responsibility codified in the [INA].”).

To be sure, states have some power to regulate issues touching on immigration,

*Chamber of Commerce*, 563 U.S. at 588. But a law that regulates an area of traditional state concern can still effect an impermissible regulation of immigration if it does not mirror federal objectives and incorporate federal immigration classifications. See *Plyler*, 457 U.S. at 225-26. Where these objectives are not mirrored or these classifications are not incorporated, federal courts have routinely invalidated state and local intrusions into the immigration domain, whether these intrusions concerned tuition at a state university (*Toll*, 458 U.S. at 16-17), the issuance of a commercial fishing license (*Takahashi*, 334 U.S. at 418-22), municipal rental ordinances (*Lozano v. City of Hazleton*, 724 F.3d 297, 317 (3d Cir. 2013), and *Villas at Parkside Partners v. City of Farmers Branch*, 726 F.3d 524, 536 (5th Cir. 2013)), state contract law (*United States v. Alabama*, 691 F.3d 1269, 1292-96 (11th Cir. 2012)), or, as here, eligibility requirements for state driver's licenses and identification cards (*ADAC*, 855 F.3d at 970-75).

This is because a central concern of the comprehensive federal scheme of immigration regulation is the "treatment of aliens lawfully in the country," *De Canas*, 424 U.S. at 359, including the classification of noncitizens, which is a "routine" part of the federal government's business. See *Plyler*, 457 U.S. at 225. Indeed, the Supreme Court has been clear that "[t]he States enjoy no power with respect to the classification of aliens," for "[t]his power is 'committed to the political branches of the Federal Government.'" *Id.* (quoting *Mathews v. Diaz*, 426 U.S. 67, 81 (1976)); see also *Nyquist v. Mauclet*, 432 U.S. 1, 7 n.8 (1977) ("Congress, as an aspect of its broad power over immigration and

naturalization, enjoys rights to distinguish among aliens that are not shared by the States.”); *Villas at Parkside Partners v. City of Farmers Branch*, 726 F.3d 524, 537 (5th Cir. 2013) (*en banc*) (“[T]he power to classify non-citizens is reserved exclusively to the federal government[.]”). Accordingly, in a variety of contexts courts have held that state laws seeking to classify noncitizens in a manner independent of federal standards are preempted. See *Hispanic Interest Coalition of Alabama v. Bentley*, 2011 WL 5516953, at \*23-24 (N.D. Ala. Sept. 28, 2011) (enjoining Alabama statute that redefined “lawful presence” in the United States for purposes of eligibility for public postsecondary education to include only persons with “lawful permanent residence or an appropriate nonimmigrant visa” even though other categories of noncitizens also qualify as “lawfully present” under the INA), *vacated in relevant part as moot sub nom. Hispanic Interest Coalition of Alabama v. Governor of Alabama*, 691 F.3d 1236 (11th Cir. 2012)<sup>10</sup>; *LULAC v. Wilson*, 908 F. Supp. 755, 772 (C.D. Cal. 1995) (holding California statute prohibiting persons lawfully admitted to the United States for a temporary period from receiving certain services to be an impermissible regulation of immigration because the classification was “not in any way tied to federal standards”) (emphasis removed), *on reconsideration*, 997 F. Supp. 1244 (C.D.

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<sup>10</sup> On appeal in *Hispanic Interest Coalition*, the challenged statute was amended so as to eliminate the impermissible classification (and render the plaintiffs’ challenge to that classification moot). See 691 F.3d at 1242-43. Even in vacating the district court’s injunction, however, the Eleventh Circuit reiterated that “[t]here is no doubt that the States enjoy no power with respect to the classification of aliens.” *Id.* at 1242 (internal quotation and alteration omitted).

Cal. 1997)<sup>11</sup>; *cf. Equal Access Educ. v. Merten*, 305 F. Supp. 2d 585, 603 (E.D. Va. 2004) (upholding a Virginia higher education admissions policy that deferred to federal immigration classifications but explaining that if the policy had “instead create[d] and appl[ied] state standards to assess the immigration status of applications,” it might have “run afoul of the Supremacy Clause”).

The case at bar cannot be meaningfully distinguished from this jurisprudence or, perhaps most notably, from the Ninth Circuit’s decision in *ADAC*, 855 F.3d at 973-75. Again, the statute in *ADAC* provided that individuals with “authorized presence” were eligible for driver’s licenses, but Arizona then created its own definition of “authorized presence,” defining the term to include many persons granted deferred action (such as persons who had applied for an adjustment of status or a cancellation of removal) but to exclude persons granted deferred action under the DACA program. *Id.* at 964-65. Insofar as Arizona had “distinguished between noncitizens based on its *own* definition of ‘authorized presence,’ one that neither mirrors nor borrows from the federal immigration classification scheme,” the court concluded that “Arizona impermissibly assume[d] the federal prerogative of creating immigration classifications according to its own design . .

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<sup>11</sup> While *LULAC* remained pending in the district court, Congress enacted and the President signed the Personal Responsibility and Work Opportunity Act of 1996 (“PRA”), 8 U.S.C. § 1601, *et seq.*, which in part regulated noncitizens’ eligibility for certain public benefits. The district court in *LULAC* therefore reconsidered portions of its earlier decision to hold that certain sections of the California statute at issue were also preempted by the PRA. *See* 997 F. Supp. at 1252-57. In so doing, it did not question its earlier holding that California’s reclassification of noncitizens lawfully present in the United States was preempted by the INA.

. despite the fact that ‘States enjoy no power with respect to the classification of aliens.’” *Id.* at 973-74 (quoting *Plyler*, 457 U.S. at 225) (emphasis in original).

If anything, H.E.A. 1050’s intrusion into the federal domain is even clearer. In *ADAC*, Arizona had at least attempted to distinguish between persons against whom immigration-related action had been deferred for different reasons recognized by federal law—those seeking an adjustment of status or a cancellation of removal versus those enrolled in the DACA program. But, in H.E.A. 1050, Indiana has created a definition of “parole” —one that includes Ukrainians but excludes persons from other countries—that distinguishes between persons who are simply indistinguishable under federal law. The failure to adhere to federal immigration classifications means that H.E.A. 1050 is preempted. *See De Canas*, 424 U.S. at 355; *ADAC*, 855 F.3d at 973-74.<sup>12</sup>

Ultimately, however, the preemption question need not be lost in legal niceties. The federal government has concluded that the plaintiffs’ entry into the United States is justified by “urgent humanitarian reasons or significant public benefit.” *See* 8 U.S.C. § 1182(d)(5). It has reached this same conclusion with respect to other Haitian nationals,

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<sup>12</sup> H.E.A. 1050 also distinguishes between Ukrainians based on the date they were paroled into the United States, allowing them to obtain driver’s licenses or identification cards only if they entered the country between February 24, 2022 and September 30, 2023 (or were subsequently paroled into the country but are the family member of an individual who was paroled into the country during this period). Ind. Code § 9-13-2-121.5(2) (incorporating Pub. L. No. 117-128, § 401(a), 136 Stat. 1211, 1218 (2022)). In other words, Indiana has gone so far as to classify even between Ukrainians granted the exact same status by the federal government, likely as a result of the exact same humanitarian crisis—that is, Russia’s invasion of Ukraine. Again, it has no authority whatsoever to do this.

and it has done so with respect to certain Cubans, Nicaraguans, Venezuelans, Ukrainians, and nationals of other countries. That, of course, is the federal government's decision to make.

Indiana, on the other hand, is saying "we prefer Ukrainians." It should not require citation to demonstrate that this preference interferes with federal prerogatives although, if it did, citations abound. *See, e.g., Arizona*, 567 U.S. at 395 ("It is fundamental that foreign countries concerned about the status, safety, and security of their nationals in the United States must be able to confer and communicate on this subject with one national sovereign, not the 50 separate States."). Exclusive federal authority over the immigration arena exists precisely to prevent the kind of "regulatory bricolage," *ADAC*, 855 F.3d at 974, that would result if independent state immigration classifications like Indiana's were permitted. Because H.E.A. 1050 distinguishes between noncitizens based on Indiana's own definition of parole and its own opinion about a federal policy, it is preempted. The plaintiffs are likely to prevail on this claim as well.

## **II. The remaining factors for the issuance of a preliminary injunction are met**

### **A. The plaintiffs are facing irreparable harm for which there is no adequate remedy at law**

Without a preliminary injunction the plaintiffs will suffer a continuing denial of their constitutional rights. It is well established that "[t]he existence of a continuing constitutional violation constitutes proof of an irreparable harm." *Preston v. Thompson*, 589 F.2d 300, 303 n.3 (7th Cir. 1978); *see also, e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976)

(plurality); *Campbell v. Miller*, 373 F.3d 834, 840 (7th Cir. 2004). As this Court has previously observed, “this presumption also applies to equal protection violations.” *Exodus Refugee Immigration, Inc. v. Pence*, 165 F. Supp. 3d 718, 738 (S.D. Ind.) (citing cases), *aff’d*, 838 F.3d 902 (7th Cir. 2016). Other courts have applied a similar presumption of irreparable harm where a plaintiff has demonstrated a likelihood of success on a preemption claim. *See, e.g., United States v. Texas*, 557 F. Supp. 3d 810, 821 (W.D. Tex. 2021) (citing cases).

But the ongoing harm to the plaintiffs is not merely theoretical. To the contrary, without a preliminary injunction they will be faced with the continuing inability to transport themselves to and from work, to attend a host of necessary appointments, to obtain groceries and other supplies, to participate in social engagements, and to fully explore Indiana. They will continue to be without a form of identification well recognized by business and governmental agencies and, more generally, they will be unable to fully immerse themselves in their new community. None of this can be adequately compensated by monetary damages, *see, e.g., Joelner v. Village of Washington Park*, 378 F.3d 613, 620 (7th Cir. 2004) (citation omitted); it is irreparable injury.

#### **B. The balance of harms favors the plaintiffs**

“The more likely it is that [the moving party] will win its case on the merits, the less the balance of harms need weigh in its favor.” *Girl Scouts of Manitou Council, Inc. v. Girl Scouts of U.S. of Am., Inc.*, 549 F.3d 1079, 1100 (7th Cir. 2008) (internal citation omitted).

The plaintiffs will prevail here and so there is no need to address the balance. Moreover, a preliminary injunction will merely require Indiana to comply with the Constitution, which it cannot claim is harmful. *See Christian Legal Soc’y v. Walker*, 453 F.3d 853, 867 (7th Cir. 2006) (holding that if a governmental entity “is applying [a] policy in a manner that violates [the plaintiff’s] First Amendment rights . . . then [the] claimed harm is no harm at all”). The balance of harms therefore favors the issuance of equitable relief.

### **C. The public interest favors issuance of a preliminary injunction**

Finally, it is “always in the public interest to prevent violation of a party’s constitutional rights.” *Déjà vu of Nashville, Inc. v. Metro. Gov’t of Nashville & Davidson Cty.*, 274 F.3d 377, 400 (6th Cir. 2001) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)) (cleaned up). The public interest is also served by the enforcement of federal anti-discrimination statutes. *See, e.g., Gen. Tele. Co. of Nw., Inc. v. EEOC*, 446 U.S. 318, 326 (1980) (Title VII); *Diamond House of SE Idaho, LLC v. City of Ammon*, 381 F. Supp. 3d 1262, 1279 (D. Idaho 2019) (Fair Housing Act), *appeal dismissed*, 2020 WL 2214373 (9th Cir. Apr. 16, 2020). The grant of a preliminary injunction here, and the elimination of Indiana’s blatant national-origin discrimination, will serve the public interest.

### **III. The preliminary injunction should be issued without bond**

The issuance of a preliminary injunction will not impose any monetary injuries on Indiana. In the absence of such injuries, no bond should be required. *See, e.g., Doctor’s*



*Assocs., Inc. v. Stuart*, 85 F.3d 975, 985 (2d Cir. 1996).

#### CONCLUSION

All requirements for preliminary relief are met in this case. The discriminatory classification scheme mandated by H.E.A. 1050 should be enjoined and the defendant should be enjoined to allow persons on humanitarian parole from countries other than Ukraine to obtain driver's licenses, learner's permits, identification cards, vehicular registrations, and certificates of titles on the same terms and conditions as persons on humanitarian parole from Ukraine may do so. This injunction should be issued without bond.

Gavin M. Rose  
Kenneth J. Falk  
Stevie J. Pactor  
ACLU of Indiana  
1031 E. Washington St.  
Indianapolis, IN 46202  
317/635-4059  
fax: 317/635-4105  
grose@aclu-in.org  
kfalk@aclu-in.org  
spactor@aclu-in.org

Nicholas Espíritu, *Pro Hac Vice*  
Tanya Broder, *Pro Hac Vice*  
Chiraayu Gosrani, *Pro Hac Vice*  
National Immigration Law Center  
3450 Wilshire Blvd., No. 108-62  
Los Angeles, CA 90010  
213/639-3900  
fax: 213/639-3911  
espiritu@nilc.org  
broder@nilc.org  
gosrani@nilc.org

Lisa S. Graybill, *Pro Hac Vice*  
National Immigration Law Center  
P.O. Box 40476  
Austin, TX 78704  
213/493-6503  
fax: 213/639-3911  
graybill@nilc.org

*Attorneys for the plaintiffs and the putative class*