

Multistate Coalition Files Amicus Brief in Support of Anti-Doxing Law

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This week, a bipartisan group of 42 attorneys general filed an [amicus brief](#) asking the U.S. Court of Appeals for the Third Circuit to uphold Daniel’s Law, a New Jersey statute enacted to protect public servants from “doxing” — i.e., maliciously posting someone else’s personal information online to incite harassment or violence.

New Jersey passed Daniel’s Law in 2020 after the attempted assassination of federal Judge Esther Salas at her family’s home resulted in the death of her son. The law prohibits the non-consensual disclosure of personal information, such as a home address, for judges, prosecutors, police officers and other public servants.

In early 2024, Atlas Data Privacy Corporation filed hundreds of lawsuits against companies (such as data brokers) for alleged Daniel’s Law violations by utilizing a provision of Daniel’s Law that allows public servants to assign their claims to third parties. Many of those cases were consolidated in Atlas Data Privacy Corp. v. MyHeritage Ltd. In June 2024, the defendants in that consolidated case asked a New Jersey district court to find Daniel’s Law unconstitutional, arguing among other things that Daniel’s Law (i) does not satisfy strict scrutiny under the First Amendment and (ii) impermissibly imposes strict liability. The court denied the motion to dismiss and Third Circuit [granted](#) appeal.

In their amicus brief, the AGs, [led by](#) Ohio Attorney General Dave Yost, advance three primary arguments in support of Daniel’s Law:

First, the states argue that violence against public servants is rising, and that this violence “threatens the long-term quality of government.” The states suggest that the potential for violence has, and will continue to, drive qualified individuals out of public service, and that those who remain will be hesitant to do what they “deem right” if they are worried about retaliation.

Second, the AGs argue that states are sovereigns, and “sovereignty necessarily entails responsibility to protect public servants” from violence. The states further assert that their “police power” grants them “broad authority to enact legislation for the public good.” Adding these principles together, it would be “quite surprising,” the states argue, if the First Amendment prohibited them from protecting public servants.

Third, the AGs assert that the country’s “federalist system expects” that states will act as laboratories for applying old principles to new problems that the founding generation could not have predicted, and that doxing “fall[s] comfortably within that mold.” The AGs explain that applying strict scrutiny would necessarily limit their ability to come up with creative solutions to new problems.

The case is on an expedited track before the Third Circuit. Briefing is set to be complete by May 27, while oral arguments are to be heard the week of July 7.

The AGs' amicus brief highlights that states are likely to speak up when they perceive that their sovereignty is at risk, whether that be through amicus briefs and [motions to intervene](#) in matters that may impact their authority, or drafting [comment letters](#) opposing federal preemption.