



Missouri Voter Protection Coalition

### **Measures to Ensure Voting in Missouri Amid the COVID-19 Crisis**

April 6, 2020 - The undersigned voter advocates urge Missouri lawmakers and officials to adopt the following policy measures to ensure accessible, safe and orderly elections in Missouri in 2020 in the wake of the COVID-19 pandemic.

The Missouri Voter Protection Coalition is a nonpartisan statewide network working to protect the right to vote in Missouri. For more than a decade we have worked to promote access to the ballot and remove barriers to voting. In the wake of the threat posed by the COVID-19 crisis, we urge the adoption of the following measures to ensure the accessible, safe and orderly conduct of the 2020 primary and general elections. The Missouri Voter Protection Coalition [joined with more than 150 organizations](#) calling on Congress to appropriate federal funds to support state elections infrastructures and urge Missouri officials to release needed funds. The below recommended policy measures for Missouri, prepared in collaboration with experts and advocates, align with [recommendations](#) advanced by the Leadership Conference for Civil and Human Rights, the [Brennan Center for Justice](#) and [National Task Force on Election Crises](#) focused on the particulars of Missouri election law and administration.

Recommended measures for voting in Missouri in 2020 in the wake of the COVID-19 crisis include:

- I. Expanded absentee voting by mail, including no-excuse absentee voting and elimination of the notary requirement. At minimum, social distancing required by COVID-19 must constitute a valid excuse for any voter to cast an absentee ballot.
- II. Advance voting before Election Day, allowing more citizens to vote over time rather than in a cluster on Election Day.
- III. Bolstered online voter registration.
- IV. Polling place modifications to ensure public safety consistent with Center for Disease Control Guidelines, and that ensure accessibility for voting populations that have traditionally faced barriers to the ballot.
- V. Robust voter assistance and education.

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## I. Voting by Mail

- **Voters should have the ability to vote absentee by mail.**<sup>1</sup> Missouri law currently limits absentee voting only to voters who attest to one of six statutory reasons they expect to be unable to physically go to the polls on Election Day.<sup>2</sup> Missouri's excuse requirement should be eliminated to allow no-excuse absentee voting and allow any registered voter to request an absentee ballot. Currently, 33 states plus the District of Columbia do not require an excuse to cast a ballot by mail.<sup>3</sup> No-excuse absentee voting in Missouri can be achieved through adoption of legislation (for example, proposals such as [SB681](#) and [HB1761](#) currently pending before the Missouri General Assembly) or on an emergency basis through exercise of the Governor's emergency powers set forth in Mo. Rev. Stat. Mo. Rev. Stat. § 44.100. Five other states that require excuses for absentee voting have waived those excuses for elections this year due to the virus.
- **Those in quarantine or practicing social distancing should be eligible to vote absentee.** At minimum, existing provisions allowing absentee voting due to "incapacity or confinement due to illness or physical disability" under Mo. Rev. Stat. § 115.277.1(2) should explicitly include anyone practicing social distancing or self-quarantine and the Secretary of State should issue guidance to local election authorities that the provisions allowing absentee voting due to "incapacity or confinement due to illness or physical disability" include those practicing social distancing or self-quarantine regardless of whether they show symptoms.<sup>4</sup> Currently, local election authorities in Missouri are making such determinations jurisdiction by jurisdiction; it is important that local election authorities have clear and unambiguous guidance on absentee voting guidelines to avoid arbitrary and differential treatment amongst jurisdictions.
- **Elimination of Notary Requirement.** Missouri law currently requires voters to have their absentee ballots notarized. There are exceptions for those on the

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<sup>1</sup> All Missouri voters should be eligible to cast an absentee ballot by mail; however, in-person voting options (consistent with public health) must also be maintained.

<sup>2</sup> Mo. Rev. Stat. § 115.277.1. The allowable reasons to vote absentee in Missouri include:

(1) Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;

(2) Incapacity or confinement due to illness or physical disability, including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability;

(3) Religious belief or practice;

(4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place;

(5) Incarceration, provided all qualifications for voting are retained;

(6) Certified participation in the address confidentiality program established under sections [589.660 to 589.681](#) because of safety concerns.

Note, that under Missouri law, no absentee ballot shall be rejected for failure of the voter to state on the ballot envelope his reason for voting absentee. *See* Mo. Rev. Stat. § 115.29.

<sup>3</sup> National Conference of State Legislatures, "Absentee and Early Voting," <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx#do%20not>

<sup>4</sup> The CDC has noted that asymptomatic COVID-19-positive individuals can transmit the disease to others. *Coronavirus 2019 (COVID-19): How to Prepare*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html>

permanent absentee list under Mo. Rev. Stat 115.284 due to incapacity or confinement; those casting an absentee ballot due to illness or disability; or covered military or overseas voters.<sup>5</sup> Government and business shutdowns, social distancing guidelines and mandatory stay-at home orders in a number of Missouri cities will make access to notaries unsafe and difficult, if not elusive, to many voters. Missouri’s notary requirement for absentee ballots should be eliminated through legislation and/or through the governor’s emergency powers. Moreover, the Secretary of State should issue guidance clarifying that people engaged in social distancing or quarantine are covered under the law’s current notary exceptions for confinement due to illness or disability<sup>6</sup> and issue a directive to local election authorities that they must accept all such absentee ballots without a notary seal.

- **Absentee ballot tracking and funding.** Missouri should create an absentee balloting tracking, verification and back-end security system in response to anticipated increases in absentee voting by mail. Moreover, Missouri lawmakers must appropriate funds to cover costs of printing, postage, ballot tracking, back-end security, receipt, processing, verification and tabulation of such ballots.<sup>7</sup> Voters should be prepared for potential delays in reporting results.
- **Provisions to facilitate access to absentee ballots** for those who face barriers to obtaining absentee ballots, including to those confined in jails, such as provisions set forth in [HB2363](#) currently pending in the Missouri General Assembly.
- **Right to Assistance.** Given that mail-in voting may be the only option for people who need assistance or are immune-compromised, voters who cannot vote in person — particularly people with disabilities, illness, or language assistance needs — must be able to get assistance completing and submitting ballots from individuals they designate. While Missouri law currently allows assistance by a person of one’s choosing for certain absentee voters,<sup>8</sup> the Secretary of State should issue guidance clarifying that this right to assistance will apply to anyone casting an absentee ballot due to the COVID-19 crisis.
- **Voters should have multiple options for requesting, receiving, and returning mail-in ballots,** including online, in person, by phone, and by mail, including through the Secretary of State’s office. Currently, Missouri voters may request an absentee ballot from their local election authority in person, by mail, by fax or by email. (Relatives within a second degree, i.e., spouse, parents or children, may also complete an absentee ballot application on behalf of the voter). While the Secretary of State’s website currently includes a fillable .pdf absentee ballot

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<sup>5</sup> Mo. Rev. Stat. § 115.291.1; Mo. Rev. Stat. § 115.283.6, Mo. Rev. Stat. § 115.283.7

<sup>6</sup> See, Mo. Rev. Stat. § 115.283.7

<sup>7</sup> See, *Estimated Costs of Covid-19 Election Resiliency Measures*, Brennan Center for Justice, March 19, 2020, <https://www.brennancenter.org/our-work/research-reports/estimated-costs-covid-19-election-resiliency-measures>

<sup>8</sup> Mo Rev. Stat. § 115.291.1 (“If the voter is blind, unable to read or write the English language, or physically incapable of voting the ballot, the voter may be assisted by a person of the voter’s own choosing.”)

- request form,<sup>9</sup> this requires the voter to print the form and transmit it to their local election authority. The Secretary of State should allow the absentee ballot application to be submitted online, and should take responsibility for transmitting to the appropriate election authority, as the office currently does with online voter registration. Missouri law currently authorizes the Secretary of State to provide for facsimile transmission of absentee ballots during a declared state of emergency.<sup>10</sup> Missouri law also currently bars election authorities from refusing to process an otherwise valid absentee ballot solely based on the envelope type.<sup>11</sup>
- **Absentee ballot deadlines should be relaxed.** Missouri law currently requires that mailed applications for absentee ballots be received by the election authority the second Wednesday before Election Day and that completed absentee ballots must be received by the Election authority by the close of polls on Election Day. These deadlines should reflect date of postmark (as Missouri currently does for voter registration deadlines) to hold voters harmless from mail delays. Missouri law currently provides that voters who become hospitalized or confined after the deadline to request an absentee ballot have a right to request that an absentee ballot be delivered and witnessed by the election authority.<sup>12</sup> Local election officials should prepare for an increase in such requests and have staff designed, with proper safety measures, to deliver such ballots. Elections officials should waive or consider measures for distance-witnessing such ballots.
  - **Postage for absentee ballots by mail should be pre-paid and envelopes should be self-stick/no-lick.** Missouri law currently authorizes the Secretary of State to prescribe regulations for the printing of absentee ballots and envelopes at no cost to the voter.<sup>13</sup> Missouri law currently provides that absentee ballot envelopes be marked as postage pre-paid.<sup>14</sup>

## II. Early In-Person Voting

- No-excuse absentee voting (as discussed above, including proposals currently pending before the Missouri General Assembly) should apply to in-person early voting, to reduce long lines and administrative stress on Election Day. Once doing so, elections administrators must educate the public about these options and urge them to vote in advance of Election Day.
- Local election jurisdictions in populous areas should consider adding additional satellite absentee voting sites and evening and weekend hours to accommodate voters and spread out voting to avoid crowds and long lines.

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<sup>9</sup> Missouri Absentee Ballot Application Form, available at:

<https://www.sos.mo.gov/CMSImages/ElectionGoVoteMissouri//2019AbsenteeBallotrequestformfillable.pdf>

<sup>10</sup> Mo. Rev. Stat. § 115.291.3

<sup>11</sup> Mo. Rev. Stat. § 115.291.4

<sup>12</sup> Mo. Rev. Stat. § 115.287.2

<sup>13</sup> Mo. Rev. Stat. § 115.285

<sup>14</sup> Mo. Rev. Stat. § 115.287.3

- In-person absentee/early voting sites should follow the recommended safety procedures for polling places discussed below.

### III. Voter Registration

- Online voter registration (OVR) should be bolstered. Currently, voters may register to vote online in Missouri through the Secretary of State’s website.<sup>15</sup> This system should be bolstered to ensure it can accommodate a surge in online registrations and registration updates. The Secretary should create and post a helpline number on this page of its website to assist voters registering online.
- The governor, under exercise of his emergency powers, must be prepared to extend voter registration deadlines in light of likely curtailment of government services and other potential online breakdowns.
- At a minimum, any adjustment or postponement of elections must include a comparable extension of the voter registration deadline. Under Missouri law, voters have until 5:00 p.m. “on the fourth Wednesday prior to the election” to register to vote. If an election is postponed due to emergency, as was done by Governor Mike Parson’s [Executive Order](#) postponing the April 7, 2020 municipal elections to June 2, 2020, then the corresponding voter registration deadline must move as well.<sup>16</sup>
- Missouri lawmakers should consider provisions to streamline and automate voter registration.<sup>17</sup> Voter registration records must be regularly updated in anticipation of increased absentee ballots by mail.
- Allow same-day voter registration for all voters in the 2020 elections.

### IV. Polling Place Modifications

- Even with reduced anticipated Election Day turnout due to anticipated expansion of absentee measures described above, Missouri election authorities should follow public health guidelines while continuing to operate polling sites on Election Day, understanding that in-person voting is essential for people who do not have ready access to mail voting.
- Local election authorities in Missouri will need to make modifications to polling place site determinations, but need to do so well enough in advance to effectively

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<sup>15</sup> <https://s1.sos.mo.gov/elections/voterregistration/>. Note, this system only allows submission of a voter registration form online if using a tablet or mobile phone or other touchscreen device. Those completing the form on a computer must print a .pdf of the registration form and sign it.

<sup>16</sup> The Missouri Voter Protection Coalition, ACLU of Missouri, Lawyers’ Committee for Civil Rights Under Law, and Dēmos issued a [letter](#) demanding that Missouri Governor Michael Parson and Secretary of State Jay Ashcroft extend the voter registration deadline for the newly rescheduled June 2, 2020 Municipal Elections to May 6, 2020, as required by state law, [https://lawyerscommittee.org/wp-content/uploads/2020/03/MO\\_VR-Deadline\\_Ltr\\_3-20-20.pdf](https://lawyerscommittee.org/wp-content/uploads/2020/03/MO_VR-Deadline_Ltr_3-20-20.pdf)

<sup>17</sup> For example, see [HB1594](#) currently pending before the Missouri General Assembly.

notify voters of polling place changes, and need to do so in a way that does not limit access for vulnerable voters, voters of color, voters with disabilities and students.

- Local election authorities in Missouri should prepare for a surge in provisional voting due to delays in the processing of voter registration applications, voter confusion resulting from polling place moves, closures and consolidations, and unfamiliarity with absentee voting, and should reinforce poll worker training particularly on these measures.
- Polling places must be adequately sanitized and follow guidance of the Centers for Disease Control and Prevention<sup>18</sup> (including requiring sick poll workers to stay home, regularly cleaning frequently touched surfaces, disinfecting potentially contaminated surfaces, such as voting machines and other equipment, and frequent hand washing and sanitizing).
- Polling places should be reconfigured for “social distancing” protocols, creating additional space between voting booths, poll workers, and voters standing in line.

#### **V. Voter Education**

- The Secretary of State and local election authorities in Missouri must undertake robust voter education campaigns as they make necessary changes to their policies and practices and must additionally counter any disinformation (intentional or not) with facts and accurate information. Election authorities should ensure easy, clear access to information on their websites, and should provide clear information to voters in mailings, PSAs and other materials.

Given the urgency of the current crisis, the need to ensure access for voters and the importance of clarity and transparency, the undersigned voter advocates urge Missouri officials to move swiftly to adopt the policy measures contained in these guidelines and urge Secretary of State Jay Ashcroft to issue clear guidelines and release resources to local election authorities to ensure the accessible, safe and orderly conduct of the 2020 primary and general elections in Missouri.

Signed:

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<sup>18</sup> See, CDC Guidelines, *Recommendations for Election Polling Locations*, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>

Action St. Louis	League of Women Voters of Metro St Louis
A Red Circle	League of Women Voters of Missouri
A. Philip Randolph Institute (APRI) – Kansas City	Metropolitan Congregations United (MCU)
A. Philip Randolph Institute (APRI) – St. Louis	Missouri Coalition for the Environment
Action Group Network	Missouri Faith Voices
African Methodist Church	Missouri Immigrant and Refugee Advocates (MIRA)
Alpha Kappa Alpha Sorority, Inc. Gamma Omega Chapter	Missouri Jobs with Justice
American Association of University Women, Missouri Chapter (AAUW)	Missouri River Township Democratic Club
American Civil Liberties Union of Missouri	Missouri Sierra Club
Center for Social Development, Washington University in St. Louis	Missouri State Conference of the NAACP
Chesterfield Township	Mitchell Resource Center for Social Services
Clayton Huddle: Active, Engaged & informed Missouri Voters	National Council of Jewish Women St. Louis
Dance the Vote	NETWORK Lobby for Catholic Social Justice
Education, Advocacy, Representation, & Leadership for Youth (EARLY)	Organization for Black Struggle
Empower: Abilities	Our Revolution
Empower Missouri	Persisterhood
Faith Voices of Southwest Missouri	Planned Parenthood Advocates in Missouri
Guadalupe Centers	Queeny/Lafayette Townships Democratic Club
Human Rights Commission of St. Joseph	SEIU MO/KS State Council
Indivisible STL	Shirley's Kitchen Cabinet
KindBio LLC	St. Francis Xavier College Church
League if Women Voters of Southwest Missouri	St. Louis Area Worker Rights Board, Jobs with Justice
League of Women Voters of Columbia-Boone County	St. Louis Area Voter Protection Coalition
League of Women Voters of Kansas City, Jackson/Clay/Platte Counties	St. Louis Area Voting Initiative
	Women's Voices Raised for Social Justice
	Yinka Faleti For Missouri

- April 6, 2020

*\* additional signatories to be added on a rolling basis.*