



Missouri Voter Protection Coalition



Via Email

March 20, 2020

Governor Michael Parson
PO Box 720
Jefferson City, MO 65102

Secretary of State Jay Ashcroft
600 West Main Street
Jefferson City, MO 65101

Re: Voter Registration Deadline for June 2, 2020 Municipal Elections

Dear Governor Parson and Secretary Ashcroft:

We write to advise that certain provisions of Wednesday's Executive Order 20-03, extending Missouri's April 7, 2020 Municipal Elections until June 2, 2020, violate the Missouri Constitution and state law by failing to correspondingly extend the voter registration deadline to the fourth Wednesday prior to the new election date as required by Mo. Rev. Stat. § 115.135. If the date of these elections remains at June 2, 2020, as provided by Executive Order 20-03, state law requires that voters be permitted to register to vote in that election through 5 p.m. on Wednesday May 6, 2020, and the Missouri Constitution requires that eligible voters who do so be allowed to vote in these elections.

We therefore request you amend Executive Order 20-03 to comply with Missouri law and take other immediate steps to ensure that all otherwise-eligible voters who register by Wednesday May 6, 2020, can vote during the June 2, 2020

elections, and that you take immediate steps to notify election authorities and educate voters of this deadline.

On Wednesday, pursuant to Missouri Executive Order 20-02 declaring a state of emergency in response to the COVID-19 virus, Missouri Governor Mike Parson signed Executive Order 20-03 (“Order”), ordering all Missouri Municipal Elections previously scheduled for April 7, 2020 to be postponed until June 2, 2020.¹

The Order requires election authorities to post notice of the June 2, 2020 election.² It also extends the deadlines to request an absentee ballot under Mo. Rev. Stat. § 115.279 to May 20, 2020, and to cast in-person absentee ballots until 5 p.m. on June 1, 2020 as set forth by law.³ It extends the deadline for a covered voter to request a ballot from the election authority to May 29 pursuant to state law.⁴ However, the Order limits eligibility for the June 2 elections to those eligible to vote on April 7 and fails to extend the corresponding voter registration deadline, maintaining a closing date of March 11, 2020.⁵ This is contrary to the Missouri Constitution and state law, which make clear that eligible voters must be allowed to vote if they have registered by the fourth Wednesday prior to Election Day.

Art. VIII, Section 2 of the Missouri Constitution mandates that anyone registered by the prescribed registration deadline must be allowed to vote, providing that “[a]ll citizens... over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if the election is one for which registration is required if they are registered within the time prescribed by law....”⁶

Missouri law leaves no question as to the timeframe for voter registration. Mo. Rev. Stat. § 115.135 provides that “[a]ny person who is qualified to vote... *shall be entitled to register* in the jurisdiction within which he or she resides,” and that to vote in an upcoming election, “a person must be registered to vote in the jurisdiction of his or her residence no later than 5:00 p.m., or the normal closing time of any public building where the registration is being held if such time is later than 5:00 p.m. *on the fourth Wednesday prior to the election.*”⁷ Accordingly, the prescribed deadline to register for a June 2, 2020 election is May 6, 2020.

¹ Office of Missouri Governor Michael Parson, *Executive Order 20-03* (March 18, 2020), available at: <https://www.sos.mo.gov/CMSImages/Library/Reference/Orders/2020/20-03.pdf>.

² *Id.*, Section IIA,

³ *Id.*, Section II E, H; *See* Mo. Rev. Stat. § 115.279.

⁴ *Id.*, Section II J (a); *See* Mo. Rev. Stat. § 115.912.

⁵ *Executive Order 20-03, supra*, Section II B (“The closing date for registration pursuant to Section 115.135.1 RSMo, shall remain March 11, 2020.”); Section II C (“The minimum age requirement for voting as set forth in Mo. Const. Art. VIII, section 2, shall continue to be ascertained as of April 7, 2020.”).

⁶ Mo. Const. Art. VIII, § 2.

⁷ Mo. Rev. Stat. § 115.135.1 (emphasis added).

On its face, the voter registration deadline set forth in Executive Order 20-03 conflicts with the Missouri Constitution and state law because it prohibits local election authorities from processing any new voter registrations for the June 2, 2020 elections that may be properly submitted by “the fourth Wednesday prior to the election.”⁸ Executive Order 20-03 instead orders that “The closing date for registration pursuant to Section 115.135.1 RSMo, shall remain March 11, 2020” – the *twelfth* Wednesday prior to the new date for Missouri’s municipal elections. Executive Order 20-03 did, however, adjust other election deadlines pursuant to state law. For example, state law requires that requests for absentee ballots be accepted until “5:00 p.m. on the second Wednesday immediately prior to [an] election.”⁹ In compliance with this statutory mandate, the Order requires that absentee ballot applications for the June 2 election be accepted until May 20.¹⁰ As it extends absentee and other deadlines in compliance with state law, Executive Order 20-03 must be amended to extend the registration deadline to May 6, 2020.

Courts in other states have found that registration deadlines had to be extended in federal elections to preserve the mandatory registration window under federal law.¹¹ While the postponed elections in Missouri are municipal elections and not subject to that federal mandate, the provisions of the Missouri Constitution and law continue to apply and accordingly dictate that voters be entitled to register by the fourth Wednesday prior to the election. There is no valid basis to suggest that the Governor’s emergency powers established under Mo. Rev. Stat. § 44.100 during a declared state of emergency would allow or justify such a profound departure from the registration deadline, particularly where the other voter deadlines have been correspondingly adjusted to time with the June 2, 2020 elections. In fact, failure to correspondingly extend the registration deadline when the other election deadlines have been extended will only sow confusion and disenfranchisement of voters who understand that they are eligible to vote if they register by the fourth Wednesday before an election. That deadline must continue to apply here.

We understand that this is a challenging time, and are aware of the rapidly changing circumstances impacting elections amid the COVID-19 threat. These circumstances warrant a swift and amicable resolution of this issue in order to ensure the smooth operation of elections and safeguard the constitutional rights of

⁸ *Id.*

⁹ Mo. Rev. Stat. § 115.279.3.

¹⁰ *Executive Order 20-03, supra*, Section II E, H.

¹¹ For example, in Georgia, a federal court found that because the date of a special runoff election was more than 30 days from the voter registration deadline set for the general election, that this original voter registration deadline violated Section 8 of the National Voter Registration Act and had to be extended for those voters who wished to vote in the runoff election. The court granted a preliminary injunction to extend the voter registration deadline for a June 20, 2017 special runoff election to no earlier than May 21, 2017. *See Ga. State Conf. of the NAACP v. Kemp*, No. 1:17-cv-1397, 2018 WL 2271244 (N.D. Ga. Apr. 11, 2017), Consent Decree at 3, *Ga. State Conf. of the NAACP v. Kemp*, No. 1:17-cv-1397 (N.D. Ga. Oct. 17, 2017), ECF No. 42 (extending preliminary injunction to all future federal elections including runoffs). Similarly, the Secretary of State of Mississippi extended the voter registration deadline to 30 days before the runoff election.

all Missouri voters. Accordingly, we request that you respond to this letter by March 30, 2020 regarding the steps you intend to take to ensure that the eligibility and registration timeframe for the June 2, 2020 elections is corrected to comply with the law.

Sincerely,



Denise Lieberman, General Counsel
Missouri Voter Protection Coalition
denise@movpc.org
(314) 780-1833

Ezra D. Rosenberg, Co-Director
Julie M. Houk, Managing Counsel
Ryan Snow, Legal Fellow
Voting Rights Project
Lawyers' Committee for Civil Rights
Under Law
1500 K Street NW, Suite 900
Washington DC, 20005
erosenberg@lawyerscommittee.org

Luz Maria Henriquez, Executive
Director
ACLU of Missouri Foundation
906 Olive Street, Suite 1130
St. Louis, Missouri 63101
Phone: (314) 652-3114
arotherth@aclu-mo.org

Chiraag Bains, Director of Legal
Strategies
Brenda Wright, Senior Advisor for
Legal Strategies
Naila S. Awan, Senior Counsel
Dēmos
80 Broad Street, 4th Floor
New York, NY 10004
cbains@demos.org

CC: Missouri Attorney General Eric Schmitt
John Sauer, General Counsel, Missouri Attorney General's Office
Frank Jung, General Counsel, Missouri Secretary of State
Chris Limbaugh, General Counsel, Missouri Governor's Office