

Written Statement of Terry C. Landry, Jr.
of the
Southern Poverty Law Center
before
House Committee on House and Governmental Affairs
State of Louisiana

April 22, 2020
Baton Rouge, Louisiana

Revised Emergency Plan Fails to Protect Louisiana Voters

On April 15, 2020, the SPLC Action Fund submitted written testimony to the House Committee on House and Governmental Affairs in response to Secretary of State Kyle Ardoin's Emergency Election Plan for the July presidential preference primary and August municipal general elections. Although it was not a perfect solution to the challenges posed by Louisiana's upcoming election by the COVID-19 pandemic, the Secretary's original emergency plan contained many of the changes Louisiana needs to make to ensure voters can safely cast a ballot this summer. Rather than build on Secretary Ardoin's plan and act decisively when swift action is needed, legislators chose to defer action and sent the Secretary back to the drawing board. Committee members cited unfounded and unsupported concerns about voter fraud to justify their inaction and insinuated that offering voter

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valid reason to challenge an absentee ballot during the COVID pandemic. The witnessing requirement should be waived outright, but the proposed fix is sufficient provided that election officials are properly trained about the change.

- ¾ The requirement that voters have their absentee ballot applications witnessed by two people must be waived. The plan should also waive witnessing requirements for voters who use a mark or are unable to sign.
- ¾ The state must provide poll workers and other election officials with protective gear and the necessary supplies to clean and disinfect polling places, voting machines, etc.

The Secretary of State's revised Emergency Election Plan removes many of these crucial changes. The Secretary of State's revised plan has the following important deficiencies

- ¾ Multiple absentee ballot excuses have been removed from the 2020 emergency absentee ballot application in the new emergency plan. The original plan listed eight acceptable excuses, now there are only five—dramatically restricting who is eligible to vote by mail for fear of contracting or spreading COVID-19 by voting in person. The following groups of people are no longer permitted to vote absentee under the new plan:
 - o Voters who are concerned about exposure to or transmission of COVID
 - o Voters between ages 60 and 65;
 - o Voters who live with or care for someone who is at increased risk of exposure to COVID-19 because they are 60 or older;
 - o Voters who are caring for a child whose school or daycare has been closed;
 - o Voters advised by a governmental authority to quarantine or shelter at home due to COVID-19.
- ¾ Several of the COVID-19-related excuses that were retained in the revised plan have been made unnecessarily restrictive:
 - o The excuse allowing those at higher risk of severe illness from COVID to vote absentee now applies only those with serious underlying medical conditions as identified by the Center for Disease Control and Prevention
 - o The “subject to stay at home, quarantine, or isolation order” excuse has been changed to allow only those under a “medically necessary quarantine or isolation order as a result of COVID-19.” Medically necessary is not defined.
 - o Caregivers for people under quarantine or isolation order must now identify the individual that they are caring for on their absentee ballot application by name. It is unclear whether or how this information will be verified, or why it is necessary for voters to supply it.

The witnessing requirement for absentee ballot requests in La. R.S. 18:1307(A) is no longer being waived. Under this plan, people who live alone but are otherwise eligible to vote absentee because they are immunocompromised, sick with COVID-19 symptoms or one of the other valid reasons listed in the revised application will have to engage in person-to-person contact to get a witness signature.

- ¾ The language in the original emergency plan that would prevent absentee ballots from being challenged due to missing witness signatures has been removed. The requirement in La. R.S. 18:1306(E)(2)(a) that absentee ballot envelope flaps be signed by a witness will remain a valid reason to challenge an absentee ballot during the coronavirus crisis. This will force voters who do not live with someone over eighteen to break social distancing guidelines and put their health at risk in order to obtain a witness signature on their ballot envelope.
- ¾ There is no longer a deadline for parish election officials to identify polling places that will need to be moved because they are in a location inappropriate for voting during a pandemic. The original version April 22 deadline has been replaced with "as soon as possible," which is inappropriately vague.
- ¾ Parishes are no longer allowed to begin preparing and verifying absentee ballots two weeks before Election Day. Instead, parishes that receive more than 2000 returned absentee ballots can begin to prepare and verify ballots a mere two days before Election Day.
- ¾ The Secretary's original plan prevented unofficial election results from being released before absentee ballot tabulation was completed. It also warned that election results might be delayed by as much as two weeks, allowing members of the public and the media to anticipate delayed returns. In the new plan, unofficial returns may be released before vote tabulation is complete and will be released at the discretion of hundreds of local parish election officials. This will create uneven reporting and generate confusion after polls close on Election Day.

As detailed in our [previously submitted testimony](#), the Secretary's plan must implement more safeguards to protect the health of voters, poll workers and our democracy during this global health crisis. Secretary Ardoine's first plan was a step in the right direction. By forcing the Secretary to release