

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Mary T. Thomas, *et al.*,

Plaintiffs,

v.

Marci Andino, *et al.*,

Defendants.

No.: 3:20-cv-01552-JMC

**State Election Commission
Defendants' Opposition to
Motion for Preliminary Injunction**

Defendants Marci Andino, John Wells, Clifford J. Elder, and Scott Moseley (“Election Defendants”), all of whom have been sued in their official capacities with the State Election Commission, submit this Opposition to the Plaintiffs’ Motion for a Preliminary Injunction.

Introduction

COVID-19 is serious. So is the rule of law. The urgency of the moment is no reason to cast aside South Carolina statutes by misapplying well-established legal principles about the extraordinary nature of injunctive relief.

The Plaintiffs ask this Court to upend South Carolina’s rules of absentee voting after that process is already underway because, they claim, the rules are too burdensome in light of COVID-19. *First*, the Plaintiffs ask the Court to enjoin the application of S.C. Code § 7-15-320, which provides which voters are qualified to vote by absentee ballot (“Qualification Requirement”), so that every voter in South Carolina may vote by absentee ballot if she so desires. *Second*, they demand the Court enjoin application of the requirement in S.C. Code §§ 7-15-220 and 7-15-420 that a witness attest to an absentee voter’s oath that she has complied with the laws governing absentee voting (“Witness Requirement”).

The Plaintiffs’ request for this drastic relief suffers from multiple flaws. In the first place, they ignore the United State Supreme Court’s level of scrutiny for absentee voting, never mentioning *McDonald v. Board of Election Commissioners of Chicago*, 394 U.S. 802 (1969). In that case, the Supreme Court refused to apply the heightened scrutiny to a challenge to absentee-voting rules that the Plaintiffs ask this Court to apply.

In the second, the crux of their argument about how in-person voting and having to see other people to witness an absentee ballot is unsafe—Governor McMaster’s “home or work” order—no longer carries much (if any) weight. The Governor lifted that order on May 4, more than a month before the June 9 primary. *See* Office of the Governor, Exec. Order 2020-31 (Election Defs.’ Ex. 1).

In the third, the Plaintiffs overstate the burden of complying with the Qualification and Witness Requirements. A careful review of their declarations shows that most, if not all, of the individual Plaintiffs can cast valid absentee ballots while safely self-quarantining.

In the fourth, they discount South Carolina’s substantial interests. The State has an interest in protection of its carefully, legislatively drawn balance of making voting easier for people who might otherwise struggle with in-person voting while avoiding voter fraud. And the State and its citizens have an undeniable interest in election integrity. The Qualification and Witness Requirements promote these interests.

And in the fifth, the Plaintiffs miscalculate the equities and the public interest. Even without an injunction, they can all vote (all by absentee ballot).

Speaking of voting, it is already underway for the primaries. Changing the rules now risks confusing voters. Plus, changing the rules now amounts to a judicial rewriting of a statute—taking the Court beyond its constitutional rule.

Background

COVID-19 and South Carolina

Like the rest of the county, COVID-19 is affecting South Carolina. Governor McMaster issued his first executive order related to COVID-19 on March 11, suspending certain transportation regulations. *See* Office of the Governor, Exec. Order 2020-07. In reliance on the authority granted to him under the South Carolina Code of Laws and Article IV of the Constitution of South Carolina, two days later, he declared a state of emergency based on the public-health emergency posed by COVID-19. *See* Office of the Governor, Exec. Order 2020-08. (Additional declarations of emergency were made on March 28, *see* Office of the Governor, Exec. Order 2020-15, April 12, *see* Office of the Governor, Exec. Order 2020-23, and April 27, *see* Office of the Governor, Exec. Order 2020-29.) Two days after the first emergency was declared, the Governor closed public schools. *See* Office of the Governor, Exec. Order 2020-09. Over the next week, other executive orders followed, including ones that limited the size of gatherings, addressed the functioning of government, and instituted social distancing. *See* Office of the Governor, Exec. Order 2020-10; Office of the Governor, Exec. Order 2020-11; Office of the Governor, Exec. Order 2020-12. All nonessential businesses were closed effective April 6. *See* Office of the Governor, Exec. Order 2020-18.

Also on April 6, Governor McMaster issued his “home or work” executive order. That order instructed South Carolinians to stay at home or limit their travel to work or obtaining essential services. *See* Office of the Governor, Exec. Order 2020-21. The “home or work” order was lifted on May 4. *See* Office of the Governor, Exec. Order 2020-31.

As of May 11, the South Carolina Department of Health and Environmental Control (“DHEC”) reported 7,653 COVID-19 cases and 331 COVID-19 deaths in South Carolina. *See* S.C. Dep’t of Health and Env’tl. Control, *SC Testing Data & Projections (COVID-19)*, <https://www.scdhec.gov/infectious-diseases/viruses/coronavirus-disease-2019-covid-19/sc-testing-data-projections-covid-19> (last visited May 11, 2020).

The South Carolina Election Law

The General Assembly is charged with “provid[ing] for the administration of elections and for absentee voting.” S.C. Const. art. II, § 10. It has done so in the South Carolina Election Law. *See* S.C. Code § 7-1-10 *et seq.*

The General Assembly has given the Election Defendants the authority to implement and oversee elections in South Carolina. *Id.* § § 7-15-10(d). The Commission consists of five members, appointed by the Governor. *Id.* § 7-3-10(a). The Commission acts independently of any political campaign. *Id.* § 7-3-10(e). The Commission, in turn, elects an executive director, who “shall be the chief administrative officer for the State Election Commission.” *Id.* § 7-3-20(A). The executive director is responsible for myriad statutorily defined duties, including, but not limited to, supervising the conduct of the county boards of elections and voter

registration (“County Boards”); maintaining a complete master list of qualified voters by county and precinct; and furnishing each County Board with a master list of all registered voters in the county at least ten days prior to each election. *Id.* § 7-3-20(B). She also serves as the chief state election official for implementing and coordinating the State’s responsibilities under the National Voter Registration Act of 1993 and for the Uniformed and Overseas Citizens Absentee Voting Act. *Id.* § 7-3-20(C).

Anyone who is a citizen of South Carolina and the United States is (subject to exceptions for mental incapacity, imprisonment, or a felony conviction) eligible to vote if he is at least eighteen years old, is not disabled from voting under the State constitution, and lives in the county and polling precinct where he offers to vote. *Id.* § 7-5-120. A person must register to vote. *Id.* § 7-5-110.

Registered voters can vote either in person on election day, *id.* § 7-13-710 *et seq.*, or by absentee ballot, *id.* § 7-15-10 *et seq.* Any registered voter may vote in person. *Id.* § 7-13-710(A). But only certain voters qualify to vote by absentee ballot. *Id.* § 7-15-320. Under this statute, certain voters are *qualified* to vote by absentee ballot, as opposed to being exempt or excused from voting in person.

Absentee Voting in South Carolina

Section 7-15-320 allows numerous voters to qualify to vote by absentee ballot:

(A) Qualified electors in any of the following categories must be permitted to vote by absentee ballot in all elections when they are absent from their county of residence on election day during the hours the polls are open, to an extent that it prevents them from voting in person:

(1) students, their spouses, and dependents residing with them;

(2) persons serving with the American Red Cross or with the United Service Organizations (USO) who are attached to and serving with the Armed Forces of the United States, their spouses, and dependents residing with them;

(3) governmental employees, their spouses, and dependents residing with them;

(4) persons on vacation (who by virtue of vacation plans will be absent from their county of residence on election day); or

(5) overseas citizens.

(B) Qualified electors in any of the following categories must be permitted to vote by absentee ballot in all elections, whether or not they are absent from their county of residence on election day:

(1) physically disabled persons;

(2) persons whose employment obligations require that they be at their place of employment during the hours that the polls are open and present written certification of that obligation to the county board of voter registration and elections;

(3) certified poll watchers, poll managers, county board of voter registration and elections members and staff, county and state election commission members and staff working on election day;

(4) persons attending sick or physically disabled persons;

(5) persons admitted to hospitals as emergency patients on the day of an election or within a four-day period before the election;

(6) persons with a death or funeral in the family within a three-day period before the election;

(7) persons who will be serving as jurors in a state or federal court on election day;

(8) persons sixty-five years of age or older;

(9) persons confined to a jail or pretrial facility pending disposition of arrest or trial; or

(10) members of the Armed Forces and Merchant Marines of the United States, their spouses, and dependents residing with them.

Id. § 7-15-320.

A voter seeking to vote by absentee ballot must submit an absentee ballot application request to the County Board. *Id.* § 7-15-330. When submitting this application, a voter must swear that he is a qualified elector, entitled to vote in that election, and will not vote again in that election. *Id.* § 7-15-340. Violating that oath is a criminal offense. *Id.* The County Board then provides the voter with an absentee ballot, along with instructions, a return-addressed envelope, and any additional necessary information. *Id.* § 7-15-370.

On the absentee ballot return-addressed envelope, the voter must make this oath:

I hereby swear (or affirm) that I am duly qualified to vote at this election according to the Constitution of the State of South Carolina, that I have not voted during this election, that the ballot or ballots contained in this envelope is my ballot and that I have received no assistance in voting my ballot that I would not have been entitled to receive had I voted in person at my voting precinct.”

Id. § 7-15-380. This oath must be “witnessed by someone designated by the voter.”

Id. The statute does not limit who this witness may be. If the ballot return-address envelope is not witnessed or there is no witness address, the ballot cannot be counted.

Absentee ballots are then returned to the County Board, which keeps a record of the returned absentee ballots and stores them in a locked box in its office. *Id.* § 7-15-385. Votes are then counted on election day. *Id.* § 7-15-420. An absentee ballot that is not properly signed and witnessed may not be counted. *Id.*

South Carolina's 2020 elections

Statewide Democratic and Republican primaries are scheduled for June 9, with runoffs slated for June 23 (if necessary). Absentee voting is currently well underway. County Boards have already received significantly more absentee ballot applications from voters than in previous years for statewide primaries. As of May 7, County Boards had already received over 75,900 requests for absentee ballots for the June 9 primaries. (By comparison, approximately 60,000 total absentee ballots were issued to voters in the 2018 statewide primary.) Over 34,400 voter absentee applications have been returned. More than 21,300 ballots have been issued to voters and more than 2,950 ballots have been returned to the County Boards. *See* Decl. of Marci Andino ¶ 4 (Election Defs.' Ex. 2).

Legal Standard

When plaintiffs seek a preliminary injunction, they must satisfy each of four elements: “(1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm, (3) the balance of hardships tips in their favor, and (4) the injunction is in the public interest.” *Metro. Reg'l Info. Sys., Inc. v. Am. Home Realty Network, Inc.*, 722 F.3d 591, 595 (4th Cir. 2013). A preliminary injunction is “an extraordinary remedy,” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008), and even more extraordinary when the injunction sought is a mandatory one (which changes the status quo), *see Wetzel v. Edwards*, 635 F.2d 283, 286 (4th Cir. 1980) (the power to issue a mandatory preliminary injunction “should be exercised sparingly”).

Argument

I. The Plaintiffs are not likely to succeed on the merits.

“[V]oting is of the most fundamental significance under our constitutional structure.” *Burdick v. Takushi*, 504 U.S. 428, 433 (1992). No one disputes that. But “the right to vote in any manner” is not “absolute.” *Id.* States may regulate elections. *See, e.g.*, U.S. Const. art. I, § 4. Indeed, such regulation is necessary to ensure that elections are fair and orderly. *Burdick*, 504 U.S. at 433.

A. Heightened scrutiny does not apply to the Plaintiffs’ claims.

Analyzing election regulations is not a one-size-fits-all task. Rather, a court typically “must weigh ‘the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’” *Id.* at 434 (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)). In other words, “the rigorousness of [the judicial] inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens First and Fourteenth Amendment rights.” *Id.* When a restriction is “severe,” it must be “narrowly drawn to advance a state interest of compelling importance.” *Id.* On the other hand, when it is a “reasonable, nondiscriminatory” restriction, “the State’s important regulatory interests are generally sufficient to justify” it. *Id.*

The Plaintiffs insist that the Qualification and Witness Requirements warrant heightened scrutiny. But they do so without acknowledging that the United

State Supreme Court has refused to examine absentee-voting provisions with such an exacting eye when the plaintiffs had other options for exercising their right to vote.¹ In *McDonald v. Board of Election Commissioners of Chicago*, the Court reviewed a challenge by unsentenced inmates in Cook County, who, although qualified voters, could not go to their polling places because they were incarcerated. Yet they could not obtain absentee ballots because they did not fall into one of the four categories of voters eligible to vote by absentee ballot under Illinois law. The Supreme Court expressly rejected the inmates' invitation to apply heightened scrutiny for two reasons. *First*, the state's "absentee provisions are not drawn on the basis of wealth or race." 394 U.S. at 807. *Second*, the state's absentee rules did not "impact [the inmates'] ability to exercise the fundamental right to vote," but rather only their "right to receive absentee ballots." *Id.* These same things are true of the Qualification and Witness Requirements: Neither is based on wealth or race, as all South Carolina voters must comply with them, and both Requirements relate to the right to receive (or submit) an absentee ballot. Although *McDonald* predates *Anderson* and *Burdick*, the Supreme Court in *Burdick* cited *McDonald* approvingly in discussing the standard of review, so it is still good law that binds this Court to apply a lower level of scrutiny to the Qualification Requirement and Witness Requirement. *See Burdick*, 504 U.S. at 434.

¹ Nor do the cases the Plaintiffs cite on the level of scrutiny consider *McDonald*, see Mem., ECF No. 7-1 at 27–28, though that is presumably because, unlike this case, those cases did involve absentee voting (making those cases of little value here).

One important part of *McDonald* also bears mentioning: “[T]here [was] nothing in the record to show that appellants are in fact absolutely prohibited from voting by the State.” *McDonald*, 394 U.S. at 809 n.7. The same is true here. The Plaintiffs can still exercise their right to vote, making *O’Brien v. Skinner*, 414 U.S. 524 (1974), (on which the Plaintiffs rely, *see* Mem., ECF No. 7-1 at 40) irrelevant. In that case, New York inmates could not vote in any manner. That is not the situation here.

B. A cornerstone of the Plaintiffs’ argument has been removed.

At least seven times in the memorandum, the Plaintiffs invoke Governor McMaster’s “home or work” order to argue that forcing people to choose to vote or risk their health is unreasonable when the State’s chief executive has instructed South Carolinians to stay at home unless they are going to work, visiting family, or obtaining essential services. This executive order, they say, demonstrates the gravity of the situation.

But Governor McMaster lifted that order as of May 4. *See* Office of the Governor, Exec. Order 2020-31. This means that although South Carolinians should still abide by social-distancing protocols, the Governor has determined is now safe for them to resume certain other activities. The Plaintiffs have therefore lost the lead argument on both of the provisions they challenge. *See* Mem., ECF No. 7-1 at 29, 36.

C. The Plaintiffs are not likely to succeed on the Qualification Requirement.

As an initial matter, one thing needs to be clear: The Constitution does not require a state to allow anyone to vote by absentee ballot. *See Griffin v. Roupas*, 385

F.3d 1128, 1131 (7th Cir. 2004). States are free to choose what, if any, absentee voting to allow. *See id.*

One additional preliminary matter: The Plaintiffs challenge section 7-15-320 generally. *See* Mem., ECF No. 7-1 at 47 (asking the Court to enjoin section 7-15-320 so that “any eligible voter, regardless of age or physical condition” to vote by absentee ballot in the June 9 primary). Their arguments focus solely on the supposed burden on voters because of COVID-19. *See* Mem. 29–32. Thus, the Election Defendants likewise focus only on that issue.

1. The Plaintiffs have overstated any burden.

It is worth noting at the outset the many voters already covered by the plain language of the statute. Among the people at heightened risk with COVID-19 include those who are 65 years of age and older, live in a nursing home or long-term care facility, are immunocompromised, or who have conditions like asthma, severe obesity, chronic lung disease, diabetes, serious heart conditions, kidney disease requiring dialysis, and liver disease. *See* Ctrs. for Disease Control & Prevention, Groups at Higher Risk for Severe Illness (Apr. 17, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html>. Assuming that someone living in a long-term care facility is either over 65 or has some serious health condition (a safe assumption), all of these people can already vote by absentee ballot. *See* S.C. Code §§ 7-15-320(B)(1) (“physically disabled persons”); 7-15-320(B)(8) (“persons sixty-five years of age or older”). Thus, South Carolina’s absentee-voting rules already protect the vast majority of those most at risk due to COVID-19, meaning that the Plaintiffs need no relief from this

Court to protect the “two distinct groups [that] are at particularly severe risk.” Mem., ECF No. 7-1 at 31.

Turn now to the individual Plaintiffs who address the Qualification Requirement specifically. Jeremy Rutledge alleges that, despite having systemic scleroderma, a chronic autoimmune disorder that affects his skin and organs, he does not consider himself physically disabled. *See* Decl. of Jeremy Rutledge ¶¶ 5–6, ECF No. 7-20. His belief does not matter. The law says what it says. The plain language of the statute controls, and his chronic illnesses mean Rutledge is qualified to vote by absentee ballot. Neither the Election Defendants nor South Carolina courts have ever strictly read “cannot” in section 7-15-310(4) to require a voter literally be unable to appear in person to qualify as “physically disabled.”

The same is true of Trena M. Walker. Her emphysema and immunocompromised condition qualifies her to vote by absentee ballot. *See* Decl. of Trena M. Walker ¶ 7, ECF No. 7-21. Her belief that she is not physically disabled is also irrelevant.

As for Mary Thomas, the Plaintiffs claim she has “no reason to vote absentee” other than self-quarantining, Mem., ECF No. 7-1 at 31, but she qualifies to vote by absentee ballot because she is over sixty-five years old, *see* S.C. Code § 7-15-320(B)(8); Decl. of Mary T. Thomas ¶ 8, ECF No. 7-18. The Qualification Requirement therefore does not impact her.

In addition to these Plaintiffs for whom the Qualification Requirement is no burden at all, that requirement is a not an unreasonable burden for others. Nea Richard, for instance, wants to be a poll worker (which allows her to vote by

absentee ballot, *see* S.C. Code § 7-15-320(B)(3)) and says more in-person voting will be a danger to her health and take more time than usual. *See* Decl. of Nea Richard ¶¶ 6, 9, 10, ECF No. 7-19. Unless a court were to mandate that the State hold the primary and general election exclusively by mail, people will have to serve as poll workers, and voters will have the right to vote in person. Some delays because of the extra precautions are inevitable, but they constitute no reason to rewrite the statute.

Some evidence the Plaintiffs offer on the Qualification Requirement is inadmissible. For instance, the only way Brenda Murphy could know about the voter described in Paragraph 12 of her Declaration is not willing to vote in person is if that voter told Murphy so. *See* Decl. of Brenda C. Murphy ¶ 12, ECF No. 7-17. Yet, that is hearsay that the Court cannot consider. *See* Fed. R. Evid. 802.

Finally, on the suggestion that in-person voting is *per se* unsafe, that is false. The Election Defendants have been and will continue to be providing special COVID-19 training to poll managers on social distancing and sanitation, so that check-in stations are properly spaced, voters leave six feet between themselves in line, voting equipment is cleaned between voters. The Election Defendants have also ordered personal protective equipment (like masks and gloves), cleaning supplies, sneeze guards for check-in stations, and cotton swabs for voters to use instead of fingers. Decl. of Marci Andino ¶ 3. Voting may take longer because of these precautions, but it can take place safely, employing the social distancing guidelines recommended by the CDC and DHEC. *See* Ctrs. for Disease Control &

Prevention, How to Protect Yourself and Others, (Apr. 24, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.

Ultimately, “even assuming that the burden [of the Qualification Requirement] may not be justified as to a few voters, that conclusion is by no means sufficient to establish [the Plaintiffs’] right to the relief they seek in this litigation.” *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 199–200 (2008) (internal footnote omitted). The Supreme Court has refused to allow election-case plaintiffs to strike down provisions that—like the Qualification Requirement—burden at most a few voters. That is particularly so in a case like this, when the Qualification Requirement does not severely burden any individual Plaintiff.

2. The State has a compelling interest.

The Plaintiffs insist the State does not have “a discernable interest in compelling citizens to vote in person in the midst of a dangerous pandemic.” Mem., ECF No. 7-1 at 33. That is a strawman.²

The correct question is whether the State has an interest in enforcing the Election Law that is on the books. Of course the State does. *See United States v. Dickson*, 40 U.S. 141, 162 (1841) (Story, J.) (“ours is a government of laws, and not of men”).

South Carolina law generally requires in-person voting. *See* S.C. Code § 7-13-710 *et seq.* Certain voters are qualified to vote by absentee ballot if they chose to do so.

² Note that neither the Election Defendants nor even the Governor could give every South Carolina voter the option to vote by mail-in absentee ballot but are merely refusing to do so. *See* S.C. Const. art. I, § 7 (“The power to suspend the laws shall be exercised only by the General Assembly or by its authority in particular cases expressly provided for by it.”).

See id. § 7-15-320. These voters are not exempt or excused from voting in-person, but rather they can be qualified to vote by absentee ballot, if they would rather vote that way than in person.

Like many policy choices, absentee voting has benefits and drawbacks. On one side of the proverbial ledger, it makes voting easier for certain individuals who might find going to their polling place challenging. *See McDonald*, 394 U.S. at 807 (noting that absentee-voting rules “are designed to make voting more available to some groups who cannot easily get to the polls”). On the other side, it heightens the risk of voting fraud.³ *See Griffin*, 385 F.3d at 1130–31 (collecting sources on voting fraud and absentee voting). To balance these competing interests, South Carolina has determined to give some voters—but not all—the right to qualify to vote by absentee ballot.

The Plaintiffs implicitly admit that not all voters qualify under state law to vote by absentee ballot, claiming that the Defendants rejected an interpretation of state law to allow everyone to qualify. *See Mem.*, ECF No. 7-1 at 33–34. They have rejected the Plaintiffs’ interpretation for good reason: it is not a plausible one because it does not comport with the plain meaning of the statutory definition of “physically disabled persons.”

³ Though they do not raise election integrity here, the Plaintiffs do so in the context of the Witness Requirement, and they challenge voter fraud as a legitimate basis for the State’s interest. Presumably, they would take the same view here. In any event, there is conflicting scholarship on this subject, and it is for legislatures, not courts, to weigh that evidence and enact appropriate legislation.

i. The Plaintiffs’ interpretation is inconsistent with the language of the statute.

The starting point for interpreting what a “physically disabled person” under section 7-15-310(4) must be the General Assembly’s intent. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (calling this intent the “cardinal rule of statutory construction”). And to determine legislative intent, this Court looks first to the words that the General Assembly used. *Smith v. Tiffany*, 419 S.C. 548, 555, 799 S.E.2d 479, 483 (2017) (“It is axiomatic that statutory interpretation begins (and often ends) with the text of the statute in question.”). Those words must be read in context such that all parts of the statute are given effect and work harmoniously together. *CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011).

The Election Law defines a “physically disabled person” as someone “who, because of injury or illness, cannot be present in person at his voting place on election day.” S.C. Code § 7-15-310(4). The Plaintiffs are correct that COVID-19 is an illness. *See* Mem., ECF No. 7-1 at 34.

But it does not follow that every South Carolina voter is statutorily defined as “physically disabled” because COVID-19 is an illness. For one, that conclusion belies the common use of the words in section 7-15-310(4). *See Olds v. City of Goose Creek*, 424 S.C. 240, 249, 818 S.E.2d 5, 10 (2018) (“In construing a statute, its words must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute’s operation.”). A simple example shows how. If someone says, “I am not going because of the flu,” the listener would understand that that person has the flu. In other words, he is sick. On the other

hand, to convey that this person did not want to go somewhere because of fear of the flu, that person would say, “I am not going because I don’t want to catch the flu.”

For another, their argument wrongly reads “because of . . . illness” in isolation. *See Senate by & through Leatherman v. McMaster*, 425 S.C. 315, 322, 821 S.E.2d 908, 912 (2018) (“We . . . should not concentrate on isolated phrases within the statute.”). In addition to a “physically disabled person” being qualified to vote by absentee ballot, a voter “attending sick or physically disabled persons” may also vote by absentee ballot. S.C. Code § 7-15-320(B)(4). These are two distinct qualifications for being able to vote absentee. The only way to harmonize these provisions and to give meaning to both is to interpret a “physically disabled person” as a person with an illness and to interpret a person “attending” the physically disabled person as someone giving care to a person with an illness. After all a person with only the fear of contracting an illness does not need a caregiver. Plus, if the Plaintiffs’ view of “physically disabled” were correct, the sick person’s illness would already qualify the care giver to vote by absentee ballot, so section 7-15-320(B)(4) would be superfluous. *See Senate by & through Leatherman*, 425 S.C. at 322, 821 S.E.2d at 912 (“we must read the statute so that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous” (internal quotation mark omitted)).

To be sure, section 7-15-310(4) must “be liberally construed in order to effectuate” its purpose. S.C. Code § 7-15-20. That is why, for example, the SEC has never strictly read “cannot” in section 7-15-310(4) to require a voter to be literally unable to appear in person to qualify as “physically disabled.” Nevertheless,

liberally construing the statute is not a license to ignore the words themselves or the context in which they appear. *See Gregory v. S.C. Democratic Exec. Comm.*, 247 S.E.2d 439, 444 (S.C. 1978) (although “our absentee voting statutes should be given a liberal construction, we cannot extend statutes to accommodate errors if such interpretation would be contrary to clear mandatory language by the Legislature”). The words here require a voter to have an illness to qualify to vote by absentee ballot, not simply have the fear of contracting an illness.

ii. The Plaintiffs’ interpretation does not align with the history of the statute.

If the language of the statutes leaves any doubt, the history of these provisions removes it. *See In re Hosp. Pricing Litig., King v. AnMed Health*, 377 S.C. 48, 54, 659 S.E.2d 131, 134 (2008) (“The history of the period in which the statute was passed may be considered in interpreting the statute.”).

The General Assembly established in 1972 the right to vote by absentee ballot if a voter was “physically unable to present himself” at the polls. 1972 S.C. Acts No. 1574, § 2 (“Any qualified elector who will be physically unable to present himself at his precinct on election day shall be permitted to vote by absentee ballot.”). When five Richland County voters sought to use this provision to vote by absentee ballot when they would be out of town on election day, the Attorney General sought a declaration from this Court on whether this statute “extends the right of absentee voting only to those qualified electors who are unable to present themselves at their voting precinct by reason of illness, injury or other physical infirmity.” *State ex rel. McLeod v. Ellisor*, 259 S.C. 364, 368, 192 S.E.2d 188, 188–89 (1972) (per curiam).

In examining the language of Act 1574, this Court recognized that the “ordinary signification of the words ‘physically unable’ is bodily incapacity or physical infirmity.” *Id.* at 368–69, 192 S.E.2d at 189. The Court looked to the dictionary for definitions for “unable” and “physically” and concluded that “[t]o interpret these words to mean something other than inability by reason of illness, injury or other bodily infirmity is to place a strained and unnatural construction on them in violation of the South Carolina rule that the words are to be taken in their ordinary and literal meaning.” *Id.* at 369, 192 S.E.2d at 189. The Court bolstered its conclusion by comparing the language of Act 1574 with other provisions on absentee voting, as interpreting Act 1574 to mean any voter who was absent on election day regardless of illness or injury would implicitly repeal the other absentee provisions (something, of course, the law disfavors). *See id.* at 369–70, 192 S.E.2d at 189–90.

Less than three years later, the General Assembly amended the provisions for absentee voting. In Act 301 of 1975, the General Assembly defined a “physically disabled person” as “a person who, because of injury or illness, cannot be present in person at his voting place on Election Day.” 1975 S.C. Acts No. 301, § 1 (codified at S.C. Code § 23-441(4) (1962)). The General Assembly allowed these physically disabled people to vote by absentee ballot, whether or not they would be absent from their county of residence on election day. *Id.* (codified at S.C. Code § 23-442(5) (1962)). This provisions have not substantively changed since 1975. *See* 2015 S.C. Acts No. 79, § 4; 2014 S.C. Acts No. 289, § 6;⁴ 2000 S.C. Acts No. 392, § 10; 1997 S.C.

⁴ This act restructured the subsections of 7-15-320 and moved “physically disabled persons” to its current location in section 7-15-320(B)(1).

Acts No. 25, § 1; 1996 S.C. Acts No. 434, § 19; 1994 S.C. Acts No. 365, § 3; 1989 S.C. Acts No. 193, § 2; 1984 S.C. Acts No. 266, § 7; 1982 S.C. Acts No. 280, § 1.⁵

When Act 301 is considered in light of *Ellisor*, it is apparent that the General Assembly was codifying the South Carolina Supreme Court’s holding. *See State v. McKnight*, 352 S.C. 635, 648, 576 S.E.2d 168, 175 (2003) (“There is a presumption that the legislature has knowledge of previous legislation as well as judicial decisions construing that legislation when later statutes are enacted on related subjects.”). The General Assembly used the same words (“injury” and “illness”) to define “physically disabled person” that the South Carolina Supreme Court used in analyzing Act 1574. And the General Assembly gave the same people (those unable to vote in person because of injury or illness) the right to vote by absentee ballot that had it under the Court’s interpretation of Act 1574.

D. The Plaintiffs are not likely to succeed on the Witness Requirement.

1. The Plaintiffs again have overstated any burden.

The Plaintiffs portray the Witness Requirement as a grave threat to their health. Having to have their absentee ballots witnessed, they insist, gives them an “impossible choice[]” of voting or their health. Mem., ECF No. 7-1 at 39.

Before getting to any specifics, a general observation about the witness requirement is necessary: Anyone can be a witness for an absentee ballot—the statute imposes no limitations. *See* S.C. Code §§ 7-15-220; 7-15-380(A). Thus, South Carolina’s witness requirement is far less burdensome than other witness

⁵ This act moved these provisions to their current code sections of 7-15-310 and 7-15-320.

requirements, such as Oklahoma’s, which requires an absentee ballot be notarized and was just struck down by that state’s supreme court. *See* Okla. Stat. tit. 26, § 14-108(A); *League of Women Voters v. Ziriax*, --- P.3d ---, 2020 WL 2111348 (Okla. May 4, 2020).

In fact, South Carolina’s requirement is less stringent than it used to be. As originally enacted, South Carolina (like Oklahoma) required the oath of a voter casting an absentee ballot had to be notarized. *See* 1953 S.C. Acts No. 48 (codified at S.C. Code 23-449.5 (1962)). The General Assembly has removed the notarization requirement.

Given the broad availability of potential witnesses for a South Carolina absentee ballot, the Plaintiffs have overstated the burden of getting a witness to sign their absentee ballots. For example, Mary Thomas says she has “cut off all *unnecessary* in-person contact with others.” Decl. of Mary T. Thomas ¶ 6, ECF No. 7-18 (emphasis added). She has some in-person contact (none of whom she claims is ineligible to be a witness), and that person could witness her absentee ballot when seeing Thomas for another reason.

Similarly, Rutledge lives with his wife. *See* Decl. of Jeremy Rutledge ¶ 8, ECF No. 7-20. His wife can witness his ballot. And although Dr. Williams has (or had) COVID-19, making it “dangerous” to interact with her husband, Mem., ECF No. 7-1 at 38, her husband could use his own pen and watch from a different room to witness her ballot. As for Walker, the Plaintiffs point to no law prohibiting an eleven year old from being a witness, and the SEC has never issued any guidance saying he could not be. *See* Decl. of Trena M. Walker ¶ 2, ECF No. 7-21.

As with the Qualification Requirement, some of the evidence the Plaintiffs offer on the Witness Requirement is inadmissible. For example, Dr. Williams, for instance claims that she would have witnessed “many” absentee ballots for voters “who have no one else to” witness their ballots, but she offers nothing to corroborate that any of these nameless people have no other witness options, nothing about who told her this, or why no one else from the Family Unit can perform these duties. *See* Decl. of Brenda C. Williams, M.D. ¶ 8; Fed. R. Evid. 602; Fed. R. Evid. 802.

More generally, a neighbor, friend, or delivery driver (if a voter is perfectly self-quarantining, someone still has to be delivering food) could witness an absentee ballot through a door. This requirement has existed since the 1950s and in its current form since the 1980s, *see* 1982 S.C. Acts No. 280, § 1; 1953 S.C. Acts No. 48, and it is clearly marked on absentee ballots, *see* Decl. of Marci Andino ¶ 7. Even if having an absentee ballot witnessed takes a little more effort because of COVID-19 (which will be the case for only a limited number of voters), the witness requirement can still be satisfied with reasonable efforts. *See AnMed Health v. S.C. Dep’t of Employment & Workforce*, 404 S.C. 224, 229, 743 S.E.2d 854, 857 (Ct. App. 2013) (“What is ‘reasonable’ will vary according to the circumstances of each case”); *see also Burdick*, 504 U.S. at 441 (upholding “reasonable” burdens). Ultimately, the Witness Requirement “is a generally applicable, nondiscriminatory voting regulation, and [Supreme Court] precedents refute the view that individual impacts are relevant to determining the severity of the burden it imposes.” *Crawford*, 553 U.S. at 205 (Scalia, J., concurring).

The Plaintiffs try to bolster their burden argument with statistics of how the Witness Requirement impacts African-Americans differently than other groups. *See* Mem., ECF No. 7-1 at 37–39. They cite, however, no case law holding that such statistics are relevant to the analysis of the severity of a burden. Indeed, *Crawford*—a case also dealt with “a neutral, nondiscriminatory regulation of voting procedure”—rejects this idea. *Crawford*, 553 U.S. at 203 (controlling opinion).

2. The State again has a compelling interest.

“A State indisputably has a compelling interest in preserving the integrity of its election process. Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam) (citation omitted).

The Witness Requirement furthers this goal. It provides “assurance of the authenticity of the absentee vote.” *Gregory*, 247 S.E.2d at 444.

Not so, say the Plaintiffs. They insist that the witness requirement provides, at best, minimal benefits in protecting the integrity of an election. Overseas voters, they point out, do not have a witness requirement, and Congress removed the federal requirement.⁶ *See* Mem., ECF No. 7-1 at 40–41.

⁶ On the elimination of this requirement by Congress, the Plaintiffs point only to a committee report to explain congressional thinking. Courts have said time and again such reports shed little light on the thinking of members, who are, after all, elected by the people and have the authority to pass legislation. *See, e.g., Digital Realty Tr., Inc. v. Somers*, 138 S. Ct. 767, 783 n.* (2018) (Thomas, J., concurring in part and concurring in the judgment) (quoting an exchange on the Senate floor observing that staff, not members, drafted a committee report).

These arguments wrongly ask the Court to evaluate legislative decisions. Of course, “[i]t is not the function of a court to determine whether the public policy that finds expression in legislation . . . is ill or well conceived.” *Williams v. Mayor & City Council of Baltimore*, 289 U.S. 36, 42 (1933).

Eleven states in addition to South Carolina also require a witness signature. See National Conf. of State Legislatures, *Verification of Absentee Ballots*, <https://www.ncsl.org/research/elections-and-campaigns/verification-of-absentee-ballots.aspx> (last visited May 4, 2020). The legislatures of these states have made a policy determination that a witness signature helps protect the integrity of an election. That is a reasonable conclusion, particularly given the requirement of witness signatures on other legal documents. See, e.g., S.C. Code §§ 30-7-20 (liens on real property); 47-9-370 (branding of livestock).

Look at how South Carolina’s witness signature requirement works. A voter casting an absentee ballot must swear that she is qualified to vote in the election, has not double voted, and received no improper assistance. See S.C. Code § 7-15-380(A). That signature must be witnessed by someone who signs the return-addressed envelope and puts his address. See *id.*

This witness requirement serves multiple purposes. In the first place, it can deter fraud. Even if someone intent on committing fraud might be willing to forge the witness signature requirement, the requirement may deter others. In the second, in the case of a challenged ballot, it allows election officials to investigate whether the ballot is valid by contacting the witness. (The Plaintiffs’ insinuation

that a witness cannot be identified because he does not have to print his name is therefore false.)

None of the cases the Plaintiffs cite helps their cause because none involves a witness requirement on an absentee ballot. In *Libertarian Party of Virginia v. Judd*, 718 F.3d 308 (4th Cir. 2013), the court addressed the witness requirement for a candidate's petition to get on the ballot, and the witness under that statute had to be the candidate or a Virginia resident—restrictions that do not apply to South Carolina's absentee ballots. The Ohio statute in *Northeast Ohio Coalition for the Homeless v. Husted*, 837 F.3d 612 (6th Cir. 2016), concerned absentee ballots and identifying voters, not protecting the integrity of an election, as Ohio did not raise that as a defense at trial.⁷ And *One Wisconsin Institute, Inc. v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016), dealt with the length of time in which in-person early voting was allowed.

3. The Witness Requirement is valid under the Voting Rights Act.

The Plaintiffs' last attack on the Witness Requirement is based on the Voting Rights Act. *See* Mem., ECF No. 7-1 at 42–44. Under federal law, no citizen may be denied the right to vote “because of his failure to comply with any test or device,” including being required to “prove his qualifications by the voucher of registered voters or members of any other class.” 52 U.S.C. §§ 10501(a), (b)(4).

⁷ Given that Ohio did not raise this defense at trial, *see* 837 F.3d at 633 (discussing what evidence was offered at trial) it is unclear why the Sixth Circuit made voter fraud the central focus of the State's interest. Even on appeal, the State did not focus on voter fraud as its interest. *See* Br. of Husted and State of Ohio 28–33, *Northeast Ohio Coalition for the Homeless v. Husted*, No. 16-3603 (6th Cir. July 1, 2016).

Before getting to any analysis, it is worth noting what is missing from the Plaintiffs' argument: any case holding that a witness requirement violates this statute. Thus, the Plaintiffs ask this Court to break new legal ground.

In so asking, the Plaintiffs ignore the plain language of § 10501. A “test or device” includes a requirement that a voter “prove his qualifications by the voucher of registered voters or members of any other class.” 52 U.S.C. § 10501(b)(4). South Carolina law does not require that the witness be another registered voter or the member of any particular class. *See* S.C. Code § 7-15-380. Therefore, it is not an illegal “test or device.”

Moreover, the Plaintiffs' reading of § 10501 would undermine election integrity or force states to abandon absentee voting (or at least restrict it significantly). Absentee voting raises particular challenges that in-person voting does not. To address these challenges, states have adopted various generally applicable provisions to avoid potential fraud in absentee voting. Protecting against that fraud is valid state interest. And it is one that has nothing to do with the purpose of § 10501, which was to prevent states from using things like literacy tests, good moral character tests, or vouchers from other votes to disenfranchise voters. *See Ely v. Klahr*, 403 U.S. 108, 118 & n.2 (1971) (discussing the ban on “tests and devices”); *cf. Ne. Ohio Coal. for the Homeless*, 837 F.3d at 629 (“The address-and-birth-date requirements simply do not fall within the meaning of ‘test or device,’ as used in the statute.”).

II. The Plaintiffs do not face an irreparable harm without an injunction.

The Plaintiffs’ argument on irreparable harm is simple: Without an injunction, because of COVID-19, their right to be vote will be lost. *See* Mem., ECF No. 7-1 at 44–45. Not so, for at least three reasons.

First, the Plaintiffs can vote. With the steps the Election Defendants are taking and by following guidance from the CDC and DHEC about social distancing and hand washing, people can safely vote in person. Framing the choice as either voting or death misstates the situation (particularly in light the “home or work” order being lifted).

Second, the Plaintiffs do not face any severe burden under the absentee-voting rules. Thomas, Rutledge, Williams, Richard, and Walker are all qualified to vote by absentee ballot. Getting a signature on those absentee ballots is not as challenging as they portray it.

Third, the Plaintiffs claim, without any evidentiary support, members of the Family Unit will suffer without an injunction. *See* Decl. of Brenda C. Williams, M.D. ¶¶ 3–4, ECF No. 7-22. These unsupported assertions carry little weight, especially in light of the overstatements of the burdens that the individual Plaintiffs face. As for the Family Unit as an entity, that it has to divert resources now to COVID-19 is no reason to issue an injunction. *See* Decl. of Brenda C. Williams, M.D. ¶ 5, ECF No. 7-22. Many other organizations have also diverted resources because of COVID-19.

III. The equities and the public interest counsel against an injunction.

Taking these factors together as the Plaintiffs did, at least four considerations counsel against an injunction.

The first is practical. The Plaintiffs can exercise their right to vote. As explained already, *see supra* Parts I.C.1. and I.D.1, the Plaintiffs have overstated any burden that exists.

The second is logistical. Absentee voting is underway. Voters have already obtained absentee ballots that require a witness signature. Decl. of Marci Andino ¶ 4. Absentee ballots have already been returned to the County Boards. *Id.* Changing the rules in the middle of the election threatens to confuse voters. As the Supreme Court has cautioned, courts must be wary of changes to procedures “just weeks before an election.” *Purcell*, 549 U.S. at 4. Those changes, “especially conflicting orders” (which is possible here because there is a case in the South Carolina Supreme Court about section 7-15-310 and another case in federal court), can “result in voter confusion and consequent incentive to remain away from the polls.” *Id.* at 4–5.

The third is precedential. Plaintiffs should be encouraged to act diligently in bringing claims. Laches is one way the law promotes that diligence. Here, Governor McMaster declared the first state of emergency in mid-March, yet the Complaint was not filed until April 22, and then the motion for the preliminary injunction, with its forty-page memorandum and twenty-two additional ECF attachments, was not filed until April 28. Under South Carolina Election Law, voters can request an absentee ballot any time in the calendar year of an election. *See* S.C. Code § 7-15-330. Put another way, the Plaintiffs took more than a month after the public-health emergency was declared to claim the injunction was necessary, and then demanded that the Defendants respond in less than a week and the Court rule as quickly as

possible—hardly a reasonable position. When timing is so tight, plaintiffs should be expected to act more quickly in asserting their claims. Failing to do so, as these Plaintiffs have, puts courts and election agencies and officials in an untenable position. That is why courts have refused to grant relief when plaintiffs delay, even in election cases. *See, e.g., Simkins v. Gressette*, 631 F.2d 287, 296 (4th Cir. 1980) (holding that the plaintiffs’ delay in bringing a suit until the eve of an election as a sufficient basis to deny their claims); *Smith v. S.C. Election Comm’n*, 874 F. Supp. 2d 483, 498 (D.S.C. 2012) (three-judge court) (holding that a delay of forty days in filing a complaint was sufficient for laches to apply). This is particularly true when, as here, statutes have been in effect for decades before they are challenged.

The fourth is constitutional. The role of courts in our constitutional republic is to interpret the law. *See Marbury v. Madison*, 5 U.S. 137, 177 (1803). It is not to rewrite the law. *See Puerto Rico v. Franklin California Tax-Free Tr.*, 136 S. Ct. 1938, 1949 (2016). The language of the Qualification Requirement and Witness Requirement is plain, and the Court is bound to apply those provisions as the General Assembly adopted them. *See id.* at 1946 (“The plain text of the [statute] begins and ends our analysis.”); *Hodges*, 341 S.C. at 85, 533 S.E.2d at 581 (calling legislative intent the “cardinal rule of statutory construction” and the words of the statute as the best evidence of that intent); *see also* S.C. Const. art. II, § 10 (giving the General Assembly the responsibility to “provide for the administration of elections and for absentee voting”). As a three-judge panel once said in a challenge to election law, “[t]he public has an interest in ensuring that the State’s general election is conducted pursuant to state law.” *Smith v. S.C. State Election Comm’n*,

901 F. Supp. 2d 639, 649 (D.S.C. 2012) (three-judge court). At its essence, the Plaintiffs’ request is for the Court to rewrite the South Carolina Election Law because of the seriousness of COVID-19. To do so would violate the Constitution and fall into the trap of which Justice Holmes warned in *Northern Securities Co. v. United States*: “Great cases, like hard cases, make bad law” because legal principles give way to the urgency of the moment. 193 U.S. 197, 364 (1904) (Holmes, J., dissenting).

Nothing the Plaintiffs say on this point overcomes these considerations. For one, much of their argument here assumes they are right on the merits. *See* Mem., ECF No. 7-1 at 45–46. As discussed already, they are not. For another they point to the public interest in protecting public health. *See* Mem., ECF No. 7-1 at 46. But that argument is based on the Governor’s “home or work” order, which has been lifted, and the CDC social distancing guidance, which the Election Defendants are working diligently to implement on Election Day. And for a third, the Plaintiffs say that absentee voting is protected in other ways. But they do not mention that the other lawsuit pending in this Court regarding the 2020 elections seeks to undo multiple of these protections for absentee voting on which the Plaintiffs rely here. *See* Compl., *Middleton v. Andino*, No. 3:20-cv-1730-JMC (D.S.C. May 1, 2020), ECF No. 1.

Conclusion

The motion for a preliminary injunction should be denied.

Respectfully Submitted,

s/ Wm. Grayson Lambert

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The United States District Court
District of South Carolina
Columbia Division

No. 3:20-cv-01552-JMC

Mary T. Thomas, et al. v. Marci Andino, et al.

EXHIBIT 1

EXECUTIVE ORDER 2020-31

State of South Carolina

Executive Department



Office of the Governor

EXECUTIVE ORDER NO. 2020-31

WHEREAS, the State of South Carolina has taken, and must continue to take, all necessary and appropriate actions in confronting the evolving public health threat presented by the 2019 Novel Coronavirus (“COVID-19”), while also simultaneously addressing and mitigating the significant economic and other impacts and burdens on individuals, families, and businesses and facilitating economic recovery and revitalization in a safe, strategic, and incremental manner; and

WHEREAS, in proactively preparing for and promptly responding to the threat posed by COVID-19, the undersigned issued Executive Order No. 2020-08 on March 13, 2020, declaring a State of Emergency based on a determination that COVID-19 represented an imminent public health emergency for the State of South Carolina; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating and directing further extraordinary measures to address the significant public health, economic, and other impacts associated with COVID-19, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, and 2020-29; and

WHEREAS, on March 16, 2020, based on updated information and recommendations from the Centers for Disease Control and Prevention (“CDC”), the President of the United States and the White House Coronavirus Task Force issued new guidance—titled, “The President’s Coronavirus Guidelines for America: 15 Days to Slow the Spread of Coronavirus (COVID-19)”——to help protect Americans during the global COVID-19 outbreak; and

WHEREAS, the President’s Coronavirus Guidelines for America recommend, *inter alia*, that the American people “[w]ork or engage in schooling from home whenever possible”; “[a]void social gatherings in groups of more than 10 people”; “[a]void eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options”; and “[a]void discretionary travel, shopping trips, and social visits”; and

WHEREAS, on March 17, 2020, based on updated information and recommendations from the CDC, the President of the United States, and the White House Coronavirus Task Force,

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the undersigned issued Executive Order No. 2020-10, directing additional emergency measures in response to the threat posed by COVID-19, to include temporarily prohibiting restaurants from providing certain food services for on-premises consumption and prohibiting events at government facilities that would convene fifty (50) or more people in a single room, area, or other confined indoor or outdoor space; and

WHEREAS, on March 21, 2020, the undersigned issued Executive Order No. 2020-12, initiating additional actions to provide regulatory relief to facilitate effective “social distancing” practices and to mitigate the significant economic impacts associated with COVID-19 on individuals and businesses throughout the State, particularly restaurants and other food-service establishments; and

WHEREAS, on March 29, 2020, the President of the United States extended and expanded the provisions of his Coronavirus Guidelines for America until April 30, 2020, based on the ongoing nature and evolving scope of the global COVID-19 pandemic; and

WHEREAS, on April 6, 2020, the undersigned issued Executive Order No. 2020-21, directing, *inter alia*, that effective Tuesday, April 7, 2020, at 5:00 p.m., any and all residents and visitors of the State of South Carolina are required to limit social interaction, practice “social distancing” in accordance with CDC guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19, and shall limit their movements outside of their Residence, except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations, as such terms are further defined therein; and

WHEREAS, on April 16, 2020, the President of the United States issued new Guidelines on Opening Up America Again, which contemplate individual States reopening in phases using a deliberate, data-driven approach tailored to address the situation in each State; and

WHEREAS, on April 20, 2020, based on the latest data from the South Carolina Department of Health and Environmental Control (“DHEC”), the undersigned issued Executive Order No. 2020-28, amending, *inter alia*, certain provisions of Executive Order Nos. 2020-18 and 2020-21, as extended by Executive Order No. 2020-23, to initiate specific modifications to prior “non-essential” business closures so as to begin the process of safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, on April 27, 2020, the undersigned issued Executive Order No. 2020-29, declaring an additional, distinct State of Emergency—based on recent developments, new facts, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances, to include the continued spread of COVID-19 and the significant economic consequences for individuals and businesses in this State—and implementing additional extraordinary measures to address the same, while also extending provisions of certain of the aforementioned and other Orders for the duration of the State of Emergency, unless otherwise modified, amended, or rescinded; and

WHEREAS, the COVID-19 pandemic represents an evolving public health threat, which requires that the State of South Carolina continue to take all necessary and appropriate actions in proactively preparing for and promptly responding to the ongoing emergency, while also

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attempting to mitigate the significant economic and other impacts and burdens on individuals, families, and businesses and providing appropriate flexibility and relief to facilitate the same; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

WHEREAS, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142 (Sept. 5, 1980); and

WHEREAS, the State of South Carolina must remain flexible to account for the evolving nature and scope of the public health emergency posed by COVID-19, while also simultaneously continuing the process of safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, for the aforementioned and other reasons, and based on the latest data from DHEC and the CDC, the undersigned has determined that it is necessary and appropriate to revisit

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and modify the terms and provisions of Executive Order Nos. 2020-10 and 2020-21, as extended by Executive Order No. 2020-29, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, while also further encouraging effective “social distancing” practices and implementing additional proactive measures to provide for and ensure the health, safety, security, and welfare of the people of this State.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

Section 1. Modification of Home or Work Order

A. I hereby modify and amend the provisions of Section 1(B) of Executive Order No. 2020-21, as extended by Section 1(H) of Executive Order No. 2020-29—which required any and all residents and visitors of the State of South Carolina to limit social interaction, practice “social distancing” in accordance with CDC guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19, and further required individuals to limit their movements outside of their Residence, except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations, as such terms are further defined therein—by deleting Section 1(B) in its entirety and substituting the following language, effective Monday, May 4, 2020, at 12:01 a.m.:

B. I hereby urge any and all residents and visitors of the State of South Carolina to limit social interaction, practice “social distancing” in accordance with CDC guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19, and further encourage residents and visitors of the State of South Carolina to limit their movements outside of their home, place of residence, or current place of abode (collectively, “Residence”), except as specified by this Order, for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations, as set forth below and as such terms are further defined herein.

All remaining provisions of Executive Order No. 2020-21, as amended by Executive Order No. 2020-28 and extended by Executive Order No. 2020-29, shall remain in effect for the duration of the State of Emergency unless and until otherwise modified, amended, or rescinded by subsequent Order.

B. Except as expressly provided herein, this Section shall not be construed to modify, amend, or otherwise alter the provisions of any prior or future Orders issued by the undersigned in connection with the State of Emergency and does not repeal, by implication or otherwise, the terms and provisions of, *inter alia*, Executive Order No. 2020-18, as amended by Executive Order No. 2020-28 and extended by Executive Order No. 2020-29. The aforementioned Orders shall remain in effect for the duration of the State of Emergency unless and until otherwise modified, amended, or rescinded by subsequent Order.

C. Notwithstanding the foregoing, individuals are still subject to the provisions of prior and future Orders issued by the undersigned in connection with the State of Emergency, to

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include Executive Order No. 2020-13, as extended by Executive Order No. 2020-29, which expressly authorizes any and all law enforcement officers of the State, or any political subdivision thereof, to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such congregation or gathering is deemed to pose, or could pose, a threat to public health.

Section 2. Authorization of Outdoor Dining Services

A. I hereby modify and amend the provisions of Section 4 of Executive Order No. 2020-10, as extended by Section 1(H) of Executive Order No. 2020-29—which directed Restaurants, as defined therein, to suspend services for, and not to permit, on-premises or dine-in consumption—so as to authorize Restaurants to provide outdoor customer dining services, effective Monday, May 4, 2020, at 12:01 a.m., in addition to previously authorized services for off-premises consumption.

B. Restaurants that elect to provide outdoor customer dining services, as authorized herein, should consider and incorporate industry guidelines regarding outdoor seating, such as those prepared and published by the South Carolina Restaurant and Lodging Association, in addition to undertaking and implementing all reasonable steps to comply with any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials:

C. I hereby authorize DHEC to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

D. Except as expressly provided herein, this Section shall not be construed to modify, amend, or otherwise alter the provisions of any prior or future Orders issued by the undersigned in connection with the State of Emergency and does not repeal, by implication or otherwise, the terms and provisions of, *inter alia*, Executive Order No. 2020-12, as extended by Executive Order No. 2020-29, or the remaining terms and provisions of Executive Order No. 2020-10, as extended by Executive Order No. 2020-29. The aforementioned Orders shall remain in effect for the duration of the State of Emergency unless and until otherwise modified, amended, or rescinded by subsequent Order.

Section 3. General Provisions

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph,

Executive Order No. 2020-31

Page 6

May 3, 2020

sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.



**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 3rd DAY OF
MAY, 2020.**

A handwritten signature in blue ink, reading "Henry McMaster", is written over a horizontal line.

HENRY MCMASTER
Governor

ATTEST:
A handwritten signature in blue ink, reading "Mark Hammond", is written over a horizontal line.
MARK HAMMOND
Secretary of State

The United States District Court
District of South Carolina
Columbia Division

No. 3:20-cv-01552-JMC

Mary T. Thomas, et al. v. Marci Andino, et al.

EXHIBIT 2

DECLARATION OF MARCI ANDINO

THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Mary T. Thomas, *et al.*,

Plaintiffs,

v.

Marci Andino, *et al.*,

Defendants.

No.: 3:20-cv-01552-JMC

Declaration of Marci Andino

My name is Marci Andino. I am over the age of eighteen and fully competent to make this declaration. Under penalty of perjury, I declare the following based upon my personal knowledge:

1. I am currently employed as the Executive Director for the South Carolina State Election Commission (SEC) and have served in such capacity since 2003.

2. Pursuant to S.C. Code § 7-3-20(C)(1), my duties include, *inter alia*: supervising county boards of voter registration and elections (county boards) in the conduct of voter registration and elections to ensure their compliance with state law, federal law, and implementing SEC policies and procedures; maintaining the statewide voter registration database; and serving as the statutorily designated “chief state election official” responsible for implementing, coordinating, and enforcing the state’s responsibilities under the National Voter Registration Act of 1993, 52 U.S.C.A. §§ 20501 *et seq.*, and the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301 *et seq.*

3. As part of my duties, I am responsible for development and maintenance of the State's computerized statewide voter registration and election management system ("VREMS") and which is used to validate registered voters during elections.

4. The SEC has taken and is taking precautions and preventative measures for the health and safety of voters, county election officials and poll workers during the June primaries. Special training has been developed for county election officials and poll workers specific to COVID-19. The SEC has ordered personal protective equipment and other preventative supplies for polling locations and county election offices including: masks, gloves and face shields for workers; hand sanitizer for workers and voters; sneeze guards for check-in stations; tape and six-foot long measuring string for identifying and marking appropriate distances; cotton swabs for voters to use on touch screens instead of fingers; cleaning and disinfecting wipes for frequently touched surfaces and voting screens; and signs encouraging voters to wear masks and adhere to social distancing. Safety guidelines from the CDC have been and will continue to be included in SEC press releases, social media messaging, and training for election workers. The SEC has also encouraged voters eligible for absentee voting—particularly those deemed high risk because of age or underlying medical conditions by the CDC—to vote by mail. Absentee voters have been encouraged to request by mail ballots early or, if voting in-person, to do so early to avoid crowds that are more likely closer to election day. To further these efforts, the SEC asked county boards to open absentee voting precincts approximately one week earlier than is custom in South Carolina to allow voters more time to avoid crowds.

In the event an absentee voting precinct does not permit social distancing due to size limitations, county boards were asked to relocate.

5. Absentee voting is currently well underway. County boards have already received significantly more absentee ballot applications from voters than in previous years for statewide primaries. As of Thursday, May 7th, county boards had already received over 75,900 requests for absentee ballots for the June 9 primaries. By comparison, approximately 60,000 total absentee ballots were issued to voters in the 2018 statewide primary. Over 34,400 voter absentee applications have been returned. More than 21,300 ballots have been issued to voters and more than 2950 ballots have been returned to the county boards.

6. Of the requests received thus far for the upcoming June 9 primaries, approximately fifty-five percent of voter applicants gave the reason of being sixty-five years of age or older. Nearly eleven percent selected physical disability, injury or illness as their reason, and nearly three percent indicated they were a caregiver attending the sick or physically disabled. A true and accurate count of the absentee ballots by qualification category received by the county boards as of close of business April 30 is attached hereto as Exhibit A. A true and accurate of all absentee ballot application requests of county boards and absentee ballots returned by county boards for the June 9, 2020 primary as of approximately 1:28 p.m., Monday, May 11, 2020 is attached as Exhibit B.

7. Upon receiving an application for a by-mail absentee ballot and verifying the voter's eligibility to vote absentee, county boards are required to mail

the following to the voter as soon as possible: a ballot; printed instructions as to the marking, folding and return of the ballot and as to the signing and return of the oath, along with notice the ballot will not be counted if it is not timely received, signed, and witnessed; an envelope labeled "Ballot Herein" in which the completed ballot must be placed; and a return-addressed envelope, the back of which is imprinted with the absentee voter's oath, a blank for the voter's signature, and blanks for the witness's signature and address. The exact form of the oath is provided in S.C. Code § 7-15-220. The "Ballot Herein" envelope with the completed ballot inside must be placed in the signed and witnessed return envelope and returned to the county board. A true and accurate copy of the printed instructions sent to each qualified voter with each absentee ballot is attached hereto as Exhibit C.

8. Pursuant to federal law, all records and papers relating to any absentee application, registration or other act required for absentee voting must be retained for twenty-two months following the applicable election. *See*: 42 U.S.C. § 1974. State law requires retention for twenty-four months.

9. The SEC publishes the *Voter Registration & Elections Handbook* (April 2019) that contains the reference materials and instruction for county boards and staff in supporting elections conducted by the counties. Section 5.5.7 instructs the counties how to handle all absentee ballots, which by law cannot be counted, but which have to be accounted for and retained, even if there is no witness and/or address to the Absentee Voter's Oath. A true and accurate copy of pages 58-59 of the *Handbook* is attached hereto as Exhibit D. For absentee ballots that are not signed

or witnessed, the county board must enter the date the ballot is returned on the VREMS screen and enter "Ballot Not Counted." Each absentee ballot that is returned without a signature, without a witness signature and address or returned late is placed in its own "Attention" envelope, which is sealed, the voter's name and registration number is written on the "Attention" envelope. *Id.* This process allows for ballot reconciliation and for compliance with the federal and state retention requirements.

10. The purpose of the March 30, 2020 letter addressed to the Governor and members of the General Assembly was to provide useful, relevant information for policymakers to consider when determining what actions to take, if any, with regards to the safe conduct of elections in light of concerns regarding COVID-19. Such decisions are beyond the scope of authority granted the SEC as an administrative agency tasked with carrying out State law as written. The position of Executive Director of the SEC often involves serving in the role of liaison between the SEC and public officials or their staff, other government entities, and the voting public. In this capacity, a number of questions were raised to me on the topic of COVID-19, including, its potential impact on the electoral process, ways the process could be modified or changed in response to any such impact, and where the authority lies to bring about any such potential changes to the Election Law. Accordingly, the letter sought to address these questions received from all outside parties and present a variety of alternative processes used in other states that policymakers, in their sole discretion, could consider. My March 30 letter was not intended as and is not an endorsement or recommendation of any particular voting method or requirements not

permitted in this state, nor of any legal position regarding the current state law requirements.

11. As the Executive Director of the SEC, I am the liaison to and work with the South Carolina Association of Registrars & Election Officials ("SCARE") Attached hereto as Exhibit E is a true and accurate copy of the April 6 2020, letter I received from Katy D. Smith, President of SCARE.

12. On April 13, 2020, I sent a letter to the Hon. Alan M. Wilson, Attorney General of South Carolina, requesting an opinion from his office how the SEC should interpret the definition of "physically disabled person," contained in S.C. Code Ann. § 7-15-310(4) for purposes of voter qualification to vote absentee.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 11, 2020.



Marci Andino

The United States District Court
District of South Carolina
Columbia Division

No. 3:20-cv-01552-JMC

Mary T. Thomas, et al. v. Marci Andino, et al.

DECLARATION OF MARCI ANDINO

EXHIBIT A

Number of absentee ballots for June primary by reason (as of 4/30):

1 Active Duty Uniformed Service	686
2 Merchant Marine	14
3 Military Spouse/Dependent	266
4 Citizen Overseas Temporary	1180
5 Citizen Overseas Permanently	292
6 Physical Disability (includes	5814
7 Student & Spouse/Dependent	2667
8 Employment	7113
9 Government employee	352
10 Vacation	4582
11 Serving on Jury	3
12 Hospital	79
13 Death or Funeral	50
14 Confined to Jail	24
15 Caregiver	1980
16 Election Worker/Watcher	16
17 Sixty-Five or Older	26292
18 Religious	133

The United States District Court
District of South Carolina
Columbia Division

No. 3:20-cv-01552-JMC

Mary T. Thomas, et al. v. Marci Andino, et al.

DECLARATION OF MARCI ANDINO

EXHIBIT B

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race ALL

County	Applications Requested									Ballots Issued						
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax	Unknown
01-ABBEVILLE	123	3	55	10	6	0	0	49	0	9	0	1	0	8	0	
02-AIKEN	1,861	336	358	75	56	2	33	1,001	0	495	0	8	482	5	0	
03-ALLENDALE	34	0	26	1	0	0	0	7	0	0	0	0	0	0	0	
04-ANDERSON	1,449	2	443	30	81	10	36	847	0	391	0	0	358	33	0	
05-BAMBERG	379	154	88	73	9	0	0	55	0	229	0	60	169	0	0	
06-BARNWELL	338	8	210	59	9	0	2	49	1	172	0	29	135	8	0	
07-BEAUFORT	4,755	23	1,020	233	218	15	88	3,158	0	70	0	28	29	13	0	
08-BERKELEY	4,582	110	1,616	191	113	1	78	2,473	0	1,642	0	57	1,582	3	0	
09-CALHOUN	108	1	43	14	5	1	1	43	0	48	0	1	45	2	0	
10-CHARLESTON	15,196	1,535	3,262	44	708	1	325	9,321	0	7,342	0	43	7,017	282	0	
11-CHEROKEE	157	2	55	17	19	0	1	63	0	79	0	12	64	3	0	
12-CHESTER	222	1	141	30	3	0	4	43	0	30	0	15	11	4	0	
13-CHESTERFIELD	114	1	44	14	6	0	4	45	0	60	0	11	47	2	0	
14-CLARENDON	816	193	303	182	8	0	2	128	0	102	0	99	0	3	0	
15-COLLETON	861	10	497	156	33	0	3	162	0	435	0	119	314	2	0	
16-DARLINGTON	1,125	7	704	147	28	2	1	236	0	681	0	110	559	12	0	
17-DILLON	906	5	481	395	0	0	1	24	0	656	0	110	545	0	0	1
18-DORCHESTER	2,959	50	751	72	159	0	43	1,884	0	895	0	53	839	3	0	
19-EDGEFIELD	396	19	223	33	18	0	2	101	0	248	0	7	234	7	0	
20-FAIRFIELD	445	1	235	103	8	0	1	97	0	206	0	64	141	1	0	
21-FLORENCE	1,744	36	558	430	79	1	0	640	0	798	0	316	448	34	0	
22-GEORGETOWN	1,974	352	626	145	12	0	16	820	3	691	0	91	598	0	0	2
23-GREENVILLE	5,003	119	833	123	191	0	110	3,627	0	942	0	58	789	95	0	
24-GREENWOOD	797	5	400	111	50	0	16	213	2	457	0	7	436	14	0	
25-HAMPTON	476	6	180	233	12	0	1	44	0	370	0	20	349	1	0	
26-HORRY	5,370	207	2,017	155	26	0	52	2,913	0	1,150	0	101	1,028	21	0	
27-JASPER	811	70	249	53	21	0	8	410	0	447	0	20	426	1	0	
28-KERSHAW	567	2	197	33	42	0	22	271	0	236	0	6	205	24	0	1
29-LANCASTER	1,567	89	986	138	52	0	22	280	0	779	0	122	634	23	0	
30-LAURENS	463	11	214	78	10	0	0	150	0	230	0	59	162	8	0	1
31-LEE	70	2	29	4	3	0	7	25	0	29	0	2	21	6	0	
32-LEXINGTON	3,432	94	978	208	99	0	102	1,951	0	604	0	97	477	30	0	
33-MCCORMICK	176	0	37	24	15	0	0	100	0	21	0	17	0	4	0	
34-MARION	1,582	9	1,332	185	3	0	2	51	0	153	0	145	1	7	0	
35-MARLBORO	1,189	355	415	243	11	144	0	21	0	242	0	234	7	0	0	1
36-NEWBERRY	303	7	102	26	11	2	7	148	0	25	0	17	4	4	0	
37-OCONEE	1,701	25	768	78	166	0	29	635	0	758	0	50	673	35	0	
38-ORANGEBURG	2,506	1,310	735	175	22	4	23	237	0	1,451	0	83	1,350	18	0	
39-PICKENS	948	9	260	15	12	0	23	629	0	32	0	0	8	24	0	
40-RICHLAND	8,129	425	2,535	378	196	4	230	4,361	0	3,249	0	79	2,986	183	0	1

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	94	1	14	6	13	0	3	57	0	49	0	6	40	3	0	
42-SPARTANBURG	2,224	93	781	24	141	0	26	1,024	135	485	0	24	435	26	0	
43-SUMTER	2,277	707	639	379	67	13	40	419	13	1,233	0	46	1,142	45	0	
44-UNION	71	1	21	10	7	0	9	23	0	29	0	6	16	7	0	
45-WILLIAMSBURG	570	3	282	118	8	1	0	158	0	275	0	113	151	11	0	
46-YORK	3,763	47	1,115	152	291	3	78	2,077	0	1,822	0	32	1,790	0	0	
Total	84,633	6,446	26,858	5,403	3,047	204	1,451	41,070	154	30,347	0	2,578	26,747	1,015	0	7

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race Black/AA

County	Applications Requested									Ballots Issued						
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax	Unknown
01-ABBEVILLE	18	0	11	3	3	0	0	1	0	1	0	0	0	1	0	
02-AIKEN	192	3	60	22	0	0	4	103	0	80	0	0	80	0	0	
03-ALLENDALE	29	0	25	1	0	0	0	3	0	0	0	0	0	0	0	
04-ANDERSON	112	0	48	3	2	2	1	56	0	54	0	0	53	1	0	
05-BAMBERG	266	137	49	50	2	0	0	28	0	185	0	43	142	0	0	
06-BARNWELL	221	5	164	35	3	0	1	13	0	119	0	7	107	5	0	
07-BEAUFORT	576	3	247	139	4	5	12	166	0	4	0	1	2	1	0	
08-BERKELEY	834	5	412	74	4	0	17	322	0	256	0	7	249	0	0	
09-CALHOUN	52	1	26	9	2	0	1	13	0	22	0	1	19	2	0	
10-CHARLESTON	2,535	657	959	25	53	0	31	810	0	1,471	0	24	1,421	26	0	
11-CHEROKEE	23	0	10	3	1	0	0	9	0	16	0	2	13	1	0	
12-CHESTER	126	1	86	22	2	0	3	12	0	16	0	10	4	2	0	
13-CHESTERFIELD	29	1	11	5	0	0	1	11	0	11	0	3	8	0	0	
14-CLARENDON	619	187	204	164	0	0	2	62	0	88	0	86	0	2	0	
15-COLLETON	377	5	257	91	2	0	1	21	0	220	0	66	153	1	0	
16-DARLINGTON	736	2	533	70	2	1	0	128	0	489	0	40	447	2	0	
17-DILLON	694	5	349	333	0	0	0	7	0	546	0	82	463	0	0	1
18-DORCHESTER	535	34	164	28	6	0	6	297	0	154	0	16	138	0	0	
19-EDGEFIELD	181	9	132	18	1	0	1	20	0	128	0	3	121	4	0	
20-FAIRFIELD	225	1	114	66	0	0	0	44	0	101	0	36	65	0	0	
21-FLORENCE	602	26	187	185	14	0	0	190	0	283	0	119	154	10	0	
22-GEORGETOWN	451	134	184	60	0	0	2	68	3	206	0	42	164	0	0	
23-GREENVILLE	639	0	290	42	3	0	8	296	0	194	0	17	171	6	0	
24-GREENWOOD	160	2	78	46	0	0	5	29	0	114	0	0	109	5	0	
25-HAMPTON	349	5	127	198	4	0	1	14	0	295	0	12	282	1	0	
26-HORRY	347	5	213	21	0	0	3	105	0	146	0	11	132	3	0	
27-JASPER	268	67	125	36	2	0	5	33	0	120	0	13	107	0	0	
28-KERSHAW	149	2	70	14	0	0	4	59	0	73	0	3	62	7	0	1
29-LANCASTER	226	81	109	18	4	0	3	11	0	144	0	12	130	2	0	
30-LAURENS	169	5	105	27	4	0	0	28	0	94	0	22	69	2	0	1
31-LEE	38	2	17	3	3	0	3	10	0	16	0	1	11	4	0	
32-LEXINGTON	284	3	86	20	0	0	14	161	0	5	0	3	2	0	0	
33-MCCORMICK	32	0	16	9	1	0	0	6	0	6	0	6	0	0	0	
34-MARION	1,265	8	1,093	145	1	0	1	17	0	111	0	108	0	3	0	
35-MARLBORO	789	277	306	184	3	8	0	11	0	180	0	175	5	0	0	
36-NEWBERRY	26	0	8	2	0	2	0	14	0	1	0	1	0	0	0	
37-OCONEE	52	2	25	4	8	0	2	11	0	18	0	2	12	4	0	
38-ORANGEBURG	2,184	1,284	590	164	9	4	14	119	0	1,382	0	78	1,294	10	0	
39-PICKENS	30	0	5	0	0	0	1	24	0	1	0	0	0	1	0	
40-RICHLAND	3,550	173	1,506	276	44	2	62	1,487	0	1,474	0	52	1,366	55	0	1

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	16	0	3	1	1	0	0	11	0	11	0	1	10	0	0	
42-SPARTANBURG	489	55	280	11	2	0	1	88	52	131	0	11	119	1	0	
43-SUMTER	1,721	620	482	318	15	8	13	252	13	1,018	0	29	973	16	0	
44-UNION	17	0	6	3	0	0	2	6	0	9	0	3	3	3	0	
45-WILLIAMSBURG	506	3	253	108	4	1	0	137	0	244	0	102	135	7	0	
46-YORK	460	3	184	26	16	0	5	226	0	222	0	1	221	0	0	
Total	23,199	3,813	10,209	3,082	225	33	230	5,539	68	10,459	0	1,251	9,016	188	0	4

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race White

County	Applications Requested									Ballots Issued						
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax	Unknown
01-ABBEVILLE	104	3	44	7	3	0	0	47	0	8	0	1	0	7	0	
02-AIKEN	1,636	330	293	53	55	2	24	879	0	406	0	8	394	4	0	
03-ALLENDALE	5	0	1	0	0	0	0	4	0	0	0	0	0	0	0	
04-ANDERSON	1,304	1	392	23	79	8	32	769	0	327	0	0	297	30	0	
05-BAMBERG	113	17	39	23	7	0	0	27	0	44	0	17	27	0	0	
06-BARNWELL	115	3	45	24	6	0	1	35	1	52	0	22	27	3	0	
07-BEAUFORT	4,098	20	758	93	212	10	68	2,937	0	65	0	27	26	12	0	
08-BERKELEY	3,620	97	1,190	113	106	1	51	2,062	0	1,349	0	49	1,297	3	0	
09-CALHOUN	54	0	16	5	3	1	0	29	0	25	0	0	25	0	0	
10-CHARLESTON	12,394	867	2,279	19	644	1	272	8,312	0	5,770	0	19	5,511	240	0	
11-CHEROKEE	131	2	44	14	18	0	1	52	0	62	0	10	50	2	0	
12-CHESTER	95	0	54	8	1	0	1	31	0	14	0	5	7	2	0	
13-CHESTERFIELD	83	0	33	9	6	0	3	32	0	48	0	8	38	2	0	
14-CLARENDON	195	6	97	18	8	0	0	66	0	14	0	13	0	1	0	
15-COLLETON	478	5	239	65	31	0	1	137	0	213	0	53	160	0	0	
16-DARLINGTON	382	5	167	77	26	1	1	105	0	191	0	70	111	10	0	
17-DILLON	201	0	125	58	0	0	1	17	0	102	0	26	76	0	0	
18-DORCHESTER	2,352	16	579	43	147	0	34	1,533	0	728	0	36	689	3	0	
19-EDGEFIELD	212	10	90	15	17	0	1	79	0	120	0	4	113	3	0	
20-FAIRFIELD	219	0	121	36	8	0	1	53	0	105	0	28	76	1	0	
21-FLORENCE	1,105	8	364	241	61	1	0	430	0	504	0	195	290	19	0	
22-GEORGETOWN	1,510	217	442	85	12	0	12	742	0	485	0	49	434	0	0	2
23-GREENVILLE	4,196	119	537	79	186	0	95	3,180	0	730	0	41	604	85	0	
24-GREENWOOD	630	3	321	64	50	0	11	179	2	341	0	7	325	9	0	
25-HAMPTON	124	1	53	33	8	0	0	29	0	72	0	8	64	0	0	
26-HORRY	4,930	196	1,781	133	26	0	43	2,751	0	979	0	89	874	16	0	
27-JASPER	536	3	124	16	18	0	3	372	0	323	0	6	316	1	0	
28-KERSHAW	409	0	122	19	42	0	17	209	0	155	0	3	136	16	0	
29-LANCASTER	1,321	8	863	119	47	0	17	267	0	628	0	109	500	19	0	
30-LAURENS	287	6	106	50	6	0	0	119	0	134	0	36	92	6	0	
31-LEE	31	0	12	1	0	0	3	15	0	12	0	1	9	2	0	
32-LEXINGTON	3,049	90	886	184	96	0	75	1,718	0	587	0	92	466	29	0	
33-MCCORMICK	142	0	21	15	14	0	0	92	0	15	0	11	0	4	0	
34-MARION	305	1	233	38	1	0	1	31	0	38	0	34	1	3	0	
35-MARLBORO	354	62	100	53	8	121	0	10	0	55	0	52	2	0	0	1
36-NEWBERRY	270	7	94	22	11	0	4	132	0	20	0	15	3	2	0	
37-OCONEE	1,639	23	743	74	155	0	25	619	0	734	0	48	658	28	0	
38-ORANGEBURG	309	24	142	11	13	0	4	115	0	61	0	5	52	4	0	
39-PICKENS	895	9	253	15	11	0	19	588	0	27	0	0	7	20	0	
40-RICHLAND	4,339	249	995	95	145	2	124	2,729	0	1,674	0	27	1,547	100	0	

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	77	1	11	5	12	0	2	46	0	37	0	5	30	2	0	
42-SPARTANBURG	1,677	37	496	13	137	0	22	892	80	345	0	13	310	22	0	
43-SUMTER	533	81	152	61	52	5	23	159	0	203	0	17	161	25	0	
44-UNION	54	1	15	7	7	0	7	17	0	20	0	3	13	4	0	
45-WILLIAMSBURG	64	0	29	10	4	0	0	21	0	31	0	11	16	4	0	
46-YORK	3,171	42	918	123	272	3	66	1,747	0	1,549	0	30	1,519	0	0	
Total	59,748	2,570	16,419	2,269	2,771	156	1,065	34,415	83	19,402	0	1,303	17,353	743	0	3

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race Asian

County	Applications Requested									Ballots Issued					
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax
01-ABBEVILLE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02-AIKEN	9	1	0	0	0	0	1	7	0	2	0	0	2	0	0
03-ALLENDALE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04-ANDERSON	14	0	1	2	0	0	1	10	0	3	0	0	2	1	0
05-BAMBERG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
06-BARNWELL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
07-BEAUFORT	15	0	4	0	0	0	1	10	0	0	0	0	0	0	0
08-BERKELEY	38	2	3	1	2	0	1	29	0	11	0	1	10	0	0
09-CALHOUN	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10-CHARLESTON	90	7	11	0	1	0	3	68	0	38	0	0	36	2	0
11-CHEROKEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12-CHESTER	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
13-CHESTERFIELD	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
14-CLARENDON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15-COLLETON	2	0	0	0	0	0	0	2	0	0	0	0	0	0	0
16-DARLINGTON	2	0	1	0	0	0	0	1	0	0	0	0	0	0	0
17-DILLON	1	0	1	0	0	0	0	0	0	1	0	0	1	0	0
18-DORCHESTER	24	0	8	1	0	0	1	14	0	6	0	1	5	0	0
19-EDGEFIELD	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
20-FAIRFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21-FLORENCE	9	0	2	0	3	0	0	4	0	6	0	0	3	3	0
22-GEORGETOWN	2	0	0	0	0	0	0	2	0	0	0	0	0	0	0
23-GREENVILLE	61	0	0	0	1	0	1	59	0	3	0	0	2	1	0
24-GREENWOOD	3	0	1	0	0	0	0	2	0	1	0	0	1	0	0
25-HAMPTON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
26-HORRY	27	1	8	0	0	0	1	17	0	6	0	0	6	0	0
27-JASPER	3	0	0	0	1	0	0	2	0	2	0	0	2	0	0
28-KERSHAW	2	0	1	0	0	0	0	1	0	1	0	0	1	0	0
29-LANCASTER	8	0	7	0	0	0	0	1	0	2	0	0	2	0	0
30-LAURENS	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
31-LEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
32-LEXINGTON	31	0	3	0	1	0	2	25	0	4	0	0	4	0	0
33-MCCORMICK	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
34-MARION	2	0	0	0	0	0	0	2	0	0	0	0	0	0	0
35-MARLBORO	3	1	1	1	0	0	0	0	0	1	0	1	0	0	0
36-NEWBERRY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
37-OCONEE	2	0	0	0	0	0	1	1	0	1	0	0	0	1	0
38-ORANGEBURG	1	0	0	0	0	0	1	0	0	1	0	0	0	1	0
39-PICKENS	12	0	2	0	0	0	0	10	0	1	0	0	0	1	0
40-RICHLAND	70	1	10	3	3	0	5	48	0	25	0	0	21	4	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
42-SPARTANBURG	24	0	0	0	2	0	1	19	2	5	0	0	4	1	0
43-SUMTER	8	2	3	0	0	0	0	3	0	4	0	0	4	0	0
44-UNION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
45-WILLIAMSBURG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
46-YORK	51	0	3	0	0	0	3	45	0	17	0	0	17	0	0
Total	519	15	73	8	14	0	23	384	2	141	0	3	123	15	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race Hispanic

County	Applications Requested									Ballots Issued					
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax
01-ABBEVILLE	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
02-AIKEN	10	2	2	0	0	0	1	5	0	3	0	0	3	0	0
03-ALLENDALE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04-ANDERSON	6	0	1	0	0	0	0	5	0	1	0	0	1	0	0
05-BAMBERG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
06-BARNWELL	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
07-BEAUFORT	27	0	3	0	1	0	2	21	0	0	0	0	0	0	0
08-BERKELEY	36	1	3	1	0	0	2	29	0	4	0	0	4	0	0
09-CALHOUN	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
10-CHARLESTON	71	1	2	0	5	0	6	57	0	17	0	0	11	6	0
11-CHEROKEE	2	0	1	0	0	0	0	1	0	1	0	0	1	0	0
12-CHESTER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13-CHESTERFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14-CLARENDON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15-COLLETON	2	0	1	0	0	0	0	1	0	1	0	0	1	0	0
16-DARLINGTON	1	0	1	0	0	0	0	0	0	1	0	0	1	0	0
17-DILLON	1	0	1	0	0	0	0	0	0	1	0	0	1	0	0
18-DORCHESTER	25	0	0	0	5	0	0	20	0	3	0	0	3	0	0
19-EDGEFIELD	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
20-FAIRFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21-FLORENCE	16	0	3	1	0	0	0	12	0	2	0	1	1	0	0
22-GEORGETOWN	5	0	0	0	0	0	0	5	0	0	0	0	0	0	0
23-GREENVILLE	54	0	4	0	1	0	1	48	0	8	0	0	7	1	0
24-GREENWOOD	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
25-HAMPTON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
26-HORRY	28	1	4	1	0	0	1	21	0	8	0	1	7	0	0
27-JASPER	2	0	0	0	0	0	0	2	0	0	0	0	0	0	0
28-KERSHAW	3	0	1	0	0	0	0	2	0	3	0	0	3	0	0
29-LANCASTER	5	0	2	0	1	0	1	1	0	1	0	0	0	1	0
30-LAURENS	2	0	0	0	0	0	0	2	0	0	0	0	0	0	0
31-LEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
32-LEXINGTON	33	0	2	2	1	0	2	26	0	5	0	2	3	0	0
33-MCCORMICK	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
34-MARION	6	0	4	2	0	0	0	0	0	3	0	3	0	0	0
35-MARLBORO	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
36-NEWBERRY	2	0	0	1	0	0	0	1	0	1	0	1	0	0	0
37-OCONEE	2	0	0	0	1	0	0	1	0	1	0	0	1	0	0
38-ORANGEBURG	2	0	1	0	0	0	0	1	0	2	0	0	2	0	0
39-PICKENS	4	0	0	0	1	0	1	2	0	1	0	0	0	1	0
40-RICHLAND	66	1	8	0	3	0	10	44	0	22	0	0	16	6	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
42-SPARTANBURG	15	0	2	0	0	0	1	11	1	2	0	0	1	1	0
43-SUMTER	4	0	0	0	0	0	0	4	0	1	0	0	1	0	0
44-UNION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
45-WILLIAMSBURG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
46-YORK	39	1	2	2	1	0	1	32	0	17	0	1	16	0	0
Total	476	7	49	10	20	0	29	360	1	109	0	9	84	16	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race Native American

County	Applications Requested									Ballots Issued					
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax
01-ABBEVILLE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02-AIKEN	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
03-ALLENDALE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04-ANDERSON	4	1	0	0	0	0	0	3	0	1	0	0	1	0	0
05-BAMBERG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
06-BARNWELL	1	0	1	0	0	0	0	0	0	1	0	0	1	0	0
07-BEAUFORT	3	0	0	0	0	0	1	2	0	1	0	0	1	0	0
08-BERKELEY	12	1	2	1	0	0	0	8	0	3	0	0	3	0	0
09-CALHOUN	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10-CHARLESTON	8	0	3	0	2	0	0	3	0	1	0	0	1	0	0
11-CHEROKEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12-CHESTER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13-CHESTERFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14-CLARENDON	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0
15-COLLETON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-DARLINGTON	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
17-DILLON	8	0	5	3	0	0	0	0	0	5	0	2	3	0	0
18-DORCHESTER	3	0	0	0	1	0	0	2	0	1	0	0	1	0	0
19-EDGEFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
20-FAIRFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21-FLORENCE	3	0	1	1	0	0	0	1	0	0	0	0	0	0	0
22-GEORGETOWN	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
23-GREENVILLE	4	0	1	0	0	0	1	2	0	1	0	0	1	0	0
24-GREENWOOD	1	0	0	1	0	0	0	0	0	1	0	0	1	0	0
25-HAMPTON	1	0	0	1	0	0	0	0	0	1	0	0	1	0	0
26-HORRY	10	2	4	0	0	0	0	4	0	3	0	0	3	0	0
27-JASPER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
28-KERSHAW	2	0	2	0	0	0	0	0	0	2	0	0	2	0	0
29-LANCASTER	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
30-LAURENS	2	0	1	1	0	0	0	0	0	1	0	1	0	0	0
31-LEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
32-LEXINGTON	6	1	1	1	0	0	0	3	0	0	0	0	0	0	0
33-MCCORMICK	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
34-MARION	1	0	0	0	1	0	0	0	0	1	0	0	0	1	0
35-MARLBORO	34	9	5	5	0	15	0	0	0	4	0	4	0	0	0
36-NEWBERRY	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
37-OCONEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
38-ORANGEBURG	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0
39-PICKENS	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
40-RICHLAND	8	0	2	1	0	0	0	5	0	4	0	0	4	0	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
42-SPARTANBURG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
43-SUMTER	2	1	0	0	0	0	0	1	0	1	0	0	1	0	0
44-UNION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
45-WILLIAMSBURG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
46-YORK	10	0	2	1	0	0	0	7	0	3	0	0	3	0	0
Total	133	16	36	17	4	15	2	43	0	35	0	7	27	1	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race Multiple

County	Applications Requested									Ballots Issued					
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax
01-ABBEVILLE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02-AIKEN	5	0	0	0	0	0	0	5	0	1	0	0	1	0	0
03-ALLENDALE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04-ANDERSON	3	0	0	1	0	0	0	2	0	1	0	0	1	0	0
05-BAMBERG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
06-BARNWELL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
07-BEAUFORT	6	0	1	0	0	0	0	5	0	0	0	0	0	0	0
08-BERKELEY	9	0	2	1	0	0	1	5	0	3	0	0	3	0	0
09-CALHOUN	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10-CHARLESTON	24	0	1	0	1	0	0	22	0	12	0	0	12	0	0
11-CHEROKEE	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
12-CHESTER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13-CHESTERFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14-CLARENDON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15-COLLETON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-DARLINGTON	2	0	1	0	0	0	0	1	0	0	0	0	0	0	0
17-DILLON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18-DORCHESTER	4	0	0	0	0	0	0	4	0	0	0	0	0	0	0
19-EDGEFIELD	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
20-FAIRFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21-FLORENCE	5	0	1	2	1	0	0	1	0	3	0	1	0	2	0
22-GEORGETOWN	2	0	0	0	0	0	0	2	0	0	0	0	0	0	0
23-GREENVILLE	22	0	1	1	0	0	0	20	0	2	0	0	2	0	0
24-GREENWOOD	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
25-HAMPTON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
26-HORRY	12	1	3	0	0	0	0	8	0	3	0	0	2	1	0
27-JASPER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
28-KERSHAW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
29-LANCASTER	3	0	2	1	0	0	0	0	0	2	0	1	1	0	0
30-LAURENS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
31-LEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
32-LEXINGTON	11	0	0	1	0	0	2	8	0	0	0	0	0	0	0
33-MCCORMICK	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
34-MARION	2	0	1	0	0	0	0	1	0	0	0	0	0	0	0
35-MARLBORO	5	5	0	0	0	0	0	0	0	2	0	2	0	0	0
36-NEWBERRY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
37-OCONEE	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
38-ORANGEBURG	1	0	0	0	0	0	1	0	0	1	0	0	0	1	0
39-PICKENS	4	0	0	0	0	0	0	4	0	0	0	0	0	0	0
40-RICHLAND	19	0	1	0	0	0	3	15	0	5	0	0	2	3	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
42-SPARTANBURG	4	0	0	0	0	0	0	4	0	0	0	0	0	0	0
43-SUMTER	1	1	0	0	0	0	0	0	0	1	0	0	1	0	0
44-UNION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
45-WILLIAMSBURG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
46-YORK	11	0	2	0	1	0	0	8	0	3	0	0	3	0	0
Total	159	7	16	7	4	0	7	118	0	39	0	4	28	7	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race Other

County	Applications Requested									Ballots Issued					
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax
01-ABBEVILLE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02-AIKEN	4	0	2	0	0	0	1	1	0	2	0	0	1	1	0
03-ALLENDALE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04-ANDERSON	4	0	1	0	0	0	1	2	0	2	0	0	2	0	0
05-BAMBERG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
06-BARNWELL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
07-BEAUFORT	24	0	6	1	1	0	1	15	0	0	0	0	0	0	0
08-BERKELEY	24	3	4	0	0	0	2	15	0	10	0	0	10	0	0
09-CALHOUN	1	0	1	0	0	0	0	0	0	1	0	0	1	0	0
10-CHARLESTON	50	2	6	0	0	0	3	39	0	20	0	0	17	3	0
11-CHEROKEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12-CHESTER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13-CHESTERFIELD	1	0	0	0	0	0	0	1	0	1	0	0	1	0	0
14-CLARENDON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15-COLLETON	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
16-DARLINGTON	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
17-DILLON	1	0	0	1	0	0	0	0	0	1	0	0	1	0	0
18-DORCHESTER	11	0	0	0	0	0	1	10	0	2	0	0	2	0	0
19-EDGEFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
20-FAIRFIELD	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
21-FLORENCE	2	0	0	0	0	0	0	2	0	0	0	0	0	0	0
22-GEORGETOWN	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
23-GREENVILLE	18	0	0	1	0	0	1	16	0	1	0	0	1	0	0
24-GREENWOOD	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
25-HAMPTON	1	0	0	0	0	0	0	1	0	1	0	0	1	0	0
26-HORRY	10	1	3	0	0	0	0	6	0	1	0	0	1	0	0
27-JASPER	1	0	0	1	0	0	0	0	0	1	0	1	0	0	0
28-KERSHAW	1	0	1	0	0	0	0	0	0	1	0	0	1	0	0
29-LANCASTER	2	0	2	0	0	0	0	0	0	1	0	0	1	0	0
30-LAURENS	2	0	1	0	0	0	0	1	0	1	0	0	1	0	0
31-LEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
32-LEXINGTON	12	0	0	0	1	0	2	9	0	2	0	0	1	1	0
33-MCCORMICK	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
34-MARION	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
35-MARLBORO	2	1	1	0	0	0	0	0	0	0	0	0	0	0	0
36-NEWBERRY	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0
37-OCONEE	3	0	0	0	1	0	0	2	0	2	0	0	2	0	0
38-ORANGEBURG	4	1	0	0	0	0	1	2	0	2	0	0	1	1	0
39-PICKENS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
40-RICHLAND	48	1	14	3	1	0	5	24	0	24	0	0	19	5	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

41-SALUDA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
42-SPARTANBURG	11	1	1	0	0	0	0	9	0	0	0	0	0	0	0
43-SUMTER	5	1	2	0	0	0	2	0	0	2	0	0	0	2	0
44-UNION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
45-WILLIAMSBURG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
46-YORK	15	1	3	0	1	0	1	9	0	7	0	0	7	0	0
Total	264	12	49	8	5	0	21	169	0	85	0	1	71	13	0

Absentee Statistics By Request / Ballot Issued Method By Race

06/09/2020 21113 Statewide Primary

Race Unknown

County	Applications Requested									Ballots Issued					
	Total	Mail	Phone	In Person	Email	Fax	UOCAVA	Internet	Other Carrier	Total	Online	In Person	By Mail	By eMail	By Fax
01-ABBEVILLE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02-AIKEN	4	0	1	0	1	0	2	0	0	1	0	0	1	0	0
03-ALLENDALE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04-ANDERSON	2	0	0	1	0	0	1	0	0	2	0	0	1	1	0
05-BAMBERG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
06-BARNWELL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
07-BEAUFORT	6	0	1	0	0	0	3	2	0	0	0	0	0	0	0
08-BERKELEY	9	1	0	0	1	0	4	3	0	6	0	0	6	0	0
09-CALHOUN	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10-CHARLESTON	24	1	1	0	2	0	10	10	0	13	0	0	8	5	0
11-CHEROKEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12-CHESTER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
13-CHESTERFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14-CLARENDON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15-COLLETON	1	0	0	0	0	0	1	0	0	1	0	0	0	1	0
16-DARLINGTON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
17-DILLON	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18-DORCHESTER	5	0	0	0	0	0	1	4	0	1	0	0	1	0	0
19-EDGEFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
20-FAIRFIELD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
21-FLORENCE	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0
22-GEORGETOWN	2	0	0	0	0	0	2	0	0	0	0	0	0	0	0
23-GREENVILLE	9	0	0	0	0	0	3	6	0	3	0	0	1	2	0
24-GREENWOOD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
25-HAMPTON	1	0	0	1	0	0	0	0	0	1	0	0	1	0	0
26-HORRY	6	0	1	0	0	0	4	1	0	4	0	0	3	1	0
27-JASPER	1	0	0	0	0	0	0	1	0	1	0	0	1	0	0
28-KERSHAW	1	0	0	0	0	0	1	0	0	1	0	0	0	1	0
29-LANCASTER	1	0	0	0	0	0	1	0	0	1	0	0	0	1	0
30-LAURENS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
31-LEE	1	0	0	0	0	0	1	0	0	1	0	0	1	0	0
32-LEXINGTON	6	0	0	0	0	0	5	1	0	1	0	0	1	0	0
33-MCCORMICK	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
34-MARION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
35-MARLBORO	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
36-NEWBERRY	3	0	0	0	0	0	3	0	0	3	0	0	1	2	0
37-OCONEE	2	0	0	0	0	0	1	1	0	2	0	0	0	2	0
38-ORANGEBURG	3	1	0	0	0	0	2	0	0	2	0	0	1	1	0
39-PICKENS	2	0	0	0	0	0	2	0	0	2	0	0	1	1	0
40-RICHLAND	31	0	1	0	0	0	21	9	0	21	0	0	11	10	0

Absentee Statistics By Request / Ballot Issued Method By Race

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41-SALUDA	1	0	0	0	0	0	1	0	0	1	0	0	0	1	0
42-SPARTANBURG	4	0	2	0	0	0	1	1	0	2	0	0	1	1	0
43-SUMTER	3	1	0	0	0	0	2	0	0	3	0	0	1	2	0
44-UNION	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
45-WILLIAMSBURG	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
46-YORK	6	0	1	0	0	0	2	3	0	4	0	0	4	0	0
Total	137	6	9	2	4	0	74	42	0	77	0	0	45	32	0

The United States District Court
District of South Carolina
Columbia Division

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Mary T. Thomas, et al. v. Marci Andino, et al.

DECLARATION OF MARCI ANDINO

EXHIBIT C

Instructions for Voting Absentee

1. Mark your ballot(s). Leave the stub attached.
2. Fold your ballot(s) so that the contents cannot be seen without unfolding.
3. Place your folded ballot in the enclosed envelope labeled "Ballots Herein" and seal that envelope.
4. Place your "Ballots Herein" envelope(s) in the return-addressed envelope.
5. Read the "Voters Oath" on the back of this return-addressed envelope.
6. Sign your name, or make your mark, and write the date on the back of this envelope in the presence of a witness.
7. Your witness **must** then sign the back of this envelope and list his or her complete address, including street, city, state and zip code.
8. Return your absentee ballot to your county voter registration office by the closing of the polls on election day.

You may return your absentee ballot in person, by mail or by authorizing another person to return your ballot for you. If you wish someone to return your ballot for you, you must complete the enclosed authorization form. This form is to be returned to your county voter registration office along with your absentee ballot. Please do not place this authorization form in the absentee ballot return envelope.

IMPORTANT

To have your ballot counted:

1. Sign the oath on the return-addressed envelope. If you cannot write, someone may assist you in marking your ballot and witnessing your mark.
2. Have your witness sign and list his or her complete address. Your witness does not have to be a registered voter.
3. Return your absentee ballot to your voter registration office by the time the polls close on election day.

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DECLARATION OF MARCI ANDINO

EXHIBIT D

SOUTH CAROLINA ELECTION COMMISSION

Voter Registration and Elections Handbook

SEC MNL 1200-2019-04

Postage free (pre-paid) envelopes for mailing and return of absentee ballots are to be used for the following qualified voters covered by the Federal Voting Assistance Act and the Uniformed and Overseas Absentee Voting Act:

- The Military, Merchant Marine and their spouses and dependents stationed in the United States or abroad.
- Federally employed civilians, their spouses and dependents assigned overseas.
- Students attending an institution of learning outside the United States, their spouses and dependents.
- Qualified voters residing outside the United States (includes vacation).
- A qualified voter overseas by virtue of employment.

Postage required envelopes for the mailing and return of absentee ballots are to be used for all other qualified applicants whose absentee mailing address is within the continental United States.

5.5.7 RETURN OF ABSENTEE BALLOTS

The voter must place the voted ballot in the "Ballots Herein" envelope, and place the "Ballots Herein" envelope in the return addressed envelope.

Instant run-off ballots (IRB) are returned in a specially marked "Ballot Herein" envelope marked "Instant Run-Off". These IRB are returned along with the first primary ballot. Both of these "Ballot Herein" envelopes are placed in the one return address envelope.

How to Process Absentee by Mail when Ballot is Not Signed, No Witnessed, or is Returned Late

In order for an absentee by mail ballot to be counted, the Absentee Voter's Oath must be signed and witnessed, and the absentee ballot must be returned before the polls close (7 PM) on the day of the election (S.C. Code of Laws § 7-15-230). The only exception to this is UOCAVA ballots: a UOCAVA ballot that is mailed by 7 PM on election day must be counted if it is received by 5 PM the day before the county canvass. All absentee ballots must be accounted for in VREMS; whether or not the absentee ballot will be counted and added to the official results is irrelevant in accounting for the ballots.

To account for an absentee ballot's return in VREMS, use the procedures below:

For absentee ballots that are not signed or witnessed (as with all absentee ballots), the date of their return must be entered on the absentee screen in VREMS. Then on the absentee screen, the "Ballot Not Counted" box must be checked and the appropriate Attention Reason must be selected.. These are NOT provisional ballots,

SOUTH CAROLINA ELECTION COMMISSION

Voter Registration and Elections Handbook

SEC MNL 1200-2019-04

so they will NOT be considered at the provisional ballot hearing and will ultimately NOT be counted. For absentee ballots that are returned late, the date and time of their return must be entered on the absentee screen in VREMS. Do NOT record these ballots on the provisional ballot screen in VREMS as it is not necessary because the ballot is accounted for as late by the date and time of its return. Because these ballots were returned late, they are not eligible to be counted.

"Attention" Envelope

ALL absentee ballots that are returned with no signature, returned with no witness signature, or are returned late must each be placed in their own "Attention" envelope. "Attention" envelopes are sealed, kept with election records, and never opened. Write the voter's name and voter registration number on the "Attention" envelope. This procedure is necessary so that ballots can be reconciled. In the case of a ballot that is not signed or witnessed, place the "Attention" envelope containing the ballot in the absentee ballot box. In the case of a ballot that is returned late, place the "Attention" envelope with any other "Attention" envelopes that exist for the election for record retention.

Authorized Returnee

Voters may return their absentee ballot to the absentee precinct by mail, by personal delivery or by authorizing another person to return their ballots (an "authorized returnee"). Persons returning the voted ballot for the voter must complete and submit the "Authorization to Return Absentee Ballot" form to the Board at the time the ballot is returned. Absentee ballots cannot be turned in at the polling place on election day.

The authorization form must be preserved as part of the election record. The Board must record the authorization and the name of the authorized returnee in VREMS. (7-15-385)

Candidates or a member of a candidate's paid campaign staff, including volunteers reimbursed for time expended on campaign activity, may not serve as an authorized returnee for any voter unless they are a member of the voter's immediate family.

Absentee ballots returned by any other method than described above should be challenged. All absentee ballots must be returned in the return-addressed envelope provided. Ballots issued for emergency hospital patients must be returned by the family member to whom they were issued.

The election official who receives the returned absentee ballot is charged with ensuring the authorization form is complete and accurate. The election official is **NOT** permitted to require an ID to verify the authorized returnee's identity. However, ensuring accuracy may include inquiring, "Is this you?" of the returnee. If the returnee replies "Yes," the election official may ask no further questions. For further information, refer to S.C. Code of Laws § 7-15-385.

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DECLARATION OF MARCI ANDINO

EXHIBIT E



The South Carolina Association of Registration and Election Officials, Inc. (SCARE) Executive Committee has reviewed and discussed the recent letter sent by Marci Andino, Executive Director of the State Election Commission asking Governor McMaster, Senator Peeler, Speaker Lucas and others to give consideration “to making emergency changes to our election process” outlining methods used in other states to conduct elections. The committee believes that we should hold to our purpose “to review and promote legislation which will endorse the efficiency of the registration and election process in South Carolina” This can be accomplished by taking a position of support of the “voting by mail method” understanding that some components of the other proposed options are viable solutions that may be incorporated to help compose a complete workable plan and solution when conducting elections in this manner.

We have elections that have been postponed and other elections upon us that need our collective ideas, experiences, analysis, and consideration on how to conduct them efficiently under current and proposed legislation. It is important that we are able to collectively come together to affect change in a timely manner in order to conduct future elections in South Carolina that are not only open, transparent and fair, but also conducted in a way that minimizes risk of exposure to such threats as with the current COVID-19 virus.

We the executive committee have a moral obligation to make known our concerns regarding our upcoming elections. We need a plan in place that protects our voters, staff, facility owners, communities, and poll managers in the midst and following a pandemic. Delaying or postponing elections must be done to allow time for current conditions to improve, to provide time for proper planning, preparation, and ensure funding, but that is not answering or addressing the concerns of public protection of health and safety while casting a ballot.

As a proactive approach the executive committee discussed the various options being proposed for conducting elections in the safest way possible.

The determination is that vote by mail is the best option considering this pandemic, but with the understanding that some components of the other proposed options are viable solutions that may be incorporated to help compose a complete workable plan and solution when conducting elections by mail.

Below are the reasons vote by mail is considered the best option:

1. Health and safety of voter and poll managers.
2. Unavailability of locations and poll managers.
3. Vote by mail limits person to person contact while still allowing elections to continue uninterrupted.

According to the 2020 Care Act on page 668, it allows funding for states who have procedures and plans in place for vote by mail. It is important we move quickly to ensure that our counties have the time, resources, and funding to conduct the elections.

While we are still under a cloud of uncertainty with regards to this COVID-19 pandemic what is known is that as Election Officials we are tasked with conducting elections, but have an even higher responsibility of ensuring the safety and health of everyone participating in the election process in South Carolina.

The Executive Committee would like to move forward with taking the position of support for voting by mail in South Carolina. The committee is open to hear your thoughts and comments. You may email those to the President of SCARE, Katy Smith at ksmith@andersoncountysc.org All emails will then be forwarded to the Executive Committee members for consideration.

It is the Executive Committees belief that as an organization we need to have a position on any proposed election law changes.

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DECLARATION OF MARCI ANDINO

EXHIBIT F

SOUTH CAROLINA
ELECTION COMMISSION

April 13, 2020

The Honorable Alan M. Wilson
South Carolina Attorney General
P.O. Box 11549
Columbia, SC 29211

Dear General Wilson:

The State Election Commission is exploring all possible ways to reduce the number of voters congregated at polling places on election day, including the upcoming June primary, with the obvious purpose of reducing the spread of COVID-19. One way is to encourage absentee by mail voting.

With this in mind, we are looking to current absentee voting laws to see how voters who are staying at home to reduce the spread of the virus may be able to take advantage of by mail absentee voting. S.C. Code § 7-15-320(B)(1) allows qualified electors who are physically disabled and (B)(4) allows qualified electors who are "attending sick or physically disabled persons" to vote by absentee ballot. Section 7-15-310(4) defines "physically disabled person" as meaning "a person who, because of injury or illness, cannot be present in person at his voting place on Election Day." These sections do not expressly address voters who may not be sick or confirmed as having COVID-19, but must still risk exposure by physically attending a polling place on election day. Consistent with the mandate of § 7-15-20 that these laws "shall be liberally construed in order to effectuate their purposes," we are wondering whether voters staying home due to the pandemic qualify for absentee voting under this reason.

Sincerely,



Marci Andino
Executive Director

COMMISSIONERS

JOHN WELLS
Chairperson

CLIFFORD J. EDLER

SCOTT MOSELEY

VACANT

VACANT

MARCI ANDINO
Executive Director

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