

To: Senate and Governmental Affairs Committee
From: Chris Kaiser, Advocacy Director, ACLU of Louisiana
Date: April 22, 2020
Re: Emergency plan for 2020 elections impaired by COVID-19

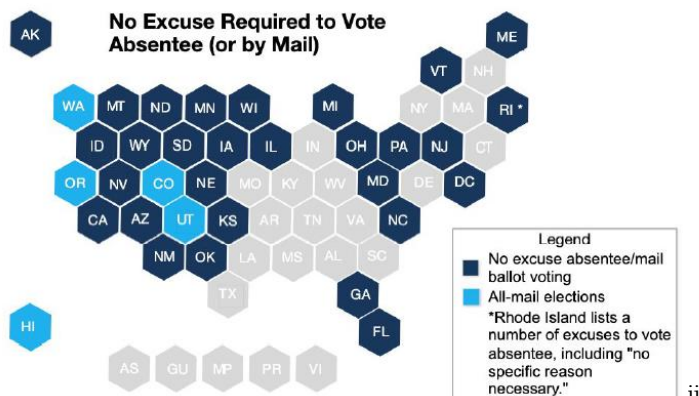
COVID-19 has taken the lives of more than 44,000 Americans, rendering in-person gatherings a lethal threat. As has been demonstrated across the country, in-person voting during this pandemic presents severe safety threats for voters and poll workers, while creating serious logistical problems for election planners. In Wisconsin, at least 7 people have contracted COVID-19 as a result of in-person voting.ⁱ

The evidence is clear that any Louisianan who votes in person this year will risk catastrophic illness. It is anathema to democracy to force people to choose between exposure to a deadly contagion and disenfranchisement.

The state must ensure voters' safety during the COVID-19 pandemic without jeopardizing the fundamental right to vote. We urge you to adopt an emergency election plan that makes it as easy as possible for all Louisianans to vote by mail and protects the integrity of absentee ballots.

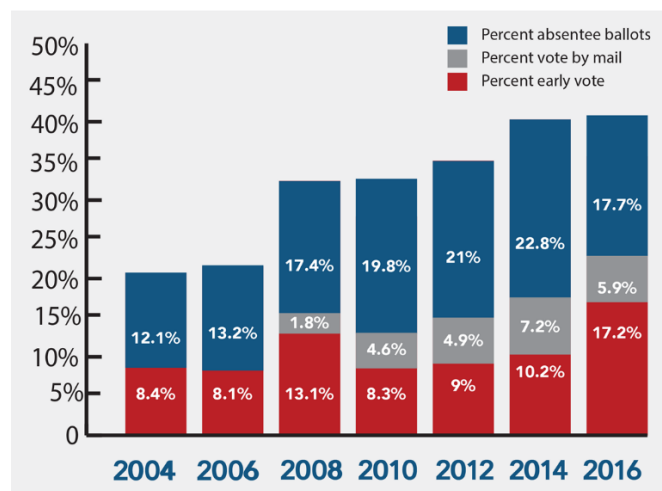
Voting by Mail is Common and Secure

Thirty-three states—both red and blue—and the District of Columbia, currently offer all voters the option of voting by mail. Five states conduct their elections virtually entirely by mail.



Long before the COVID-19 pandemic, a growing number of Americans were choosing to vote by mail. In 2016, more than 23% of ballots were cast by mail, up from 12% in 2004.ⁱⁱⁱ By 2018, mail-in ballots accounted for more than a quarter of the total vote.^{iv} Amid this dramatic increase in voting by mail, there has been no increase in fraud and no discernible advantage to either major political party.^v

At this precarious time, as Louisiana seeks to stop the spread of COVID-19 as quickly as possible and revitalize its economy, the state cannot afford a resurgence of the virus. There is no evidence-based justification for restricting eligibility for absentee by mail voting.



Protecting the Rights of Absentee Voters

The COVID-19 pandemic will compel Louisianans to avoid in-person voting locations—especially the elderly and medically vulnerable. Therefore, it is imperative that the state ensure every absentee ballot counts.

Nationwide, absentee ballots are rejected more often than ballots cast in person. This is likely because voters casting mail-in ballots cannot obtain assistance from poll workers when they need it. And in many states, including Louisiana, voters whose absentee ballots are rejected because of a perceived defect, like a signature problem, do not have the opportunity to cure the defect.

If the state rightly extends eligibility for absentee by mail voting to more Louisianans this year, it must also make the concomitant commitment to ensure those votes are counted. The state’s emergency election plan should require each parish’s board of

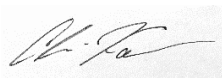
election supervisors to notify absentee by mail voters of any defects in their ballots and provide an opportunity to fix them, rather than rejecting their ballots outright.

Summary of Recommendations

- Make absentee by mail voting available to every eligible voter in Louisiana.
- Automatically distribute mail-in ballots to every voter eligible to cast one.
- Require parish boards of election supervisors to notify voters of any signature mismatches or other technical defects in absentee by mail ballots and provide a timely opportunity to cure the defect.

Together, we face an unprecedented crisis of public health and economic hardship. However, we can avoid a crisis of democracy. By taking the measures outlined above, you can simultaneously uphold the fundamental right to vote, defend against the spread of the coronavirus, and save untold numbers of lives. For the health and wellbeing of millions of Louisianans, we urge you to act.

Respectfully,



Chris Kaiser
Advocacy Director

ⁱ Kendall Karson, “7 new cases of coronavirus in Wisconsin linked to election activities: State health officials.” ABC News. April 21, 2020 (available at: <https://abcnews.go.com/Politics/cases-coronavirus-wisconsin-linked-election-activities-state-health/story?id=70264956>).

ⁱⁱ National Conference of State Legislatures, “State Laws Governing Early Voting.” August 2, 2019 (available at: <https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx>).

ⁱⁱⁱ U.S. Election Assistance Commission, *Election Administration and Voting Survey Deep Dive: Early, Absentee and Mail Voting*. October 17, 2017 (available at <https://www.eac.gov/documents/2017/10/17/eavs-deep-dive-early-absentee-and-mail-voting-data-statutory-overview>).

^{iv} U.S. Election Assistance Commission, *Election Administration and Voting Survey: 2018 Comprehensive Report* (available at https://eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report.pdf).

^v See, e.g., NEWS21, “Who Can Vote?” August 12, 2012 (available at: <https://votingrights.news21.com/article/about/>) (finding an “infinitesimal” number of cases of absentee ballot fraud in an exhaustive analysis of elections from 2000 to 2012); Charles Stewart III, Massachusetts Institute of Technology, “Some Demographics on Voting by Mail.” March 20, 2020 (available at: <https://electionupdates.caltech.edu/2020/03/20/some-demographics-on-voting-by-mail/>) (finding “very little difference” in demographics or party affiliation among voters using mail-in ballots during 2016 election).