Executive Order 2020-27 (COVID-19)

EXECUTIVE ORDER

No. 2020-27

Conducting elections on May 5, 2020 using absent voter ballots

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33.

The Emergency Management Act vests the governor with broad powers and duties to "cope with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)-(2). Similarly, the Emergency Powers of the Governor Act of 1945 provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is crucial that all Michiganders take steps to limit in-person contact. These critical mitigation measures include social distancing and limiting the number of people interacting at public gatherings. To that end, it is reasonable and necessary to temporarily suspend rules and procedures relating to the May 5, 2020 elections so that these elections may be conducted by absent voter ballot to the greatest extent possible. It also reasonable and necessary to suspend rules and procedures relating to the withdrawal of ballot proposals from the May 5, 2020 elections to better enable jurisdictions to move those elections to the August 4, 2020 election date.

From history and experience, when elections are held at polling locations, a large number of people often gather, increasing the risk of transmission of COVID-19. Section 641 of the Michigan Election Law, 1954 PA 116, as amended, MCL 168.641, provides for the May regular election to be held on May 5, 2020. Numerous school districts, counties, and other local governments have scheduled elections on May 5, 2020 with in-person voting at polling locations. At this time, conducting an in-person election would force voters and poll workers to be exposed to an unacceptably high risk of contracting or spreading COVID-19.

Because all registered electors in Michigan have the right to vote by absent voter ballot under section 4 of article 2 of the Michigan Constitution of 1963, conducting the May 5, 2020 elections by absent voter ballot provides a viable alternative to in-person voting at polling locations. Doing so permits Michigan voters to exercise their democratic rights while minimizing their exposure to the imminent and severe threat posed by COVID-19. And enabling jurisdictions to delay elections currently scheduled for May 5, 2020 where possible will further limit the disruption and harm caused by this pandemic.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. To protect the public health, safety, and welfare of this state and its residents, strict compliance with rules and procedures under chapter 28 of the Michigan Election Law ("Election Law"), 1954 PA 116, as amended, MCL 168.641 to 168.799a (conducting an election at a polling place) and under chapter 29 of the Election Law, MCL 168.801 to 168.813 (canvassing of the vote by inspectors of an election at a polling place) is temporarily suspended for elections on May 5, 2020, so that those elections may be conducted as specified in this order.

2. Elections on May 5, 2020 must be conducted to the greatest extent possible by absent voter ballots issued and submitted without in-person interaction. Each jurisdiction must maintain at least one (1) location on election day where any voter can appear in-person to receive and submit a ballot, including an individual with a disability that inhibits the individual from voting an absent voter ballot remotely. A local clerk, county clerk, or election administrator with an election on May 5, 2020 must immediately begin preparations to conduct that election primarily by mail, including the preparation of postage-prepaid absent voter ballot return envelopes for the return of voted ballots.

3. An individual possessing the qualifications of an elector under section 492 of the Election Law, MCL 168.492, who is not registered to vote but wants to register and vote in the May 5, 2020 election, is strongly encouraged to register online or by mail not later than Monday, April 20, 2020, and is strongly discouraged from going in-person to the office of the clerk of the township or city in which the individual resides to apply to register to vote. An individual can register to vote either online (by visiting mvic.sos.state.mi.us/registervoter) or by mail (using the form available at michigan.gov/documents/MIVoterRegistration_97046_7.pdf).

4. Notwithstanding section 3 of this order, an individual possessing the qualifications of an elector under section 492 of the Election Law, MCL 168.492, who is not registered to vote but wants to register and vote in the May 5, 2020 election after

April 20, 2020, may apply to register to vote at the office of the clerk of the city or township in which the individual resides during any hours in which the clerk's office is open, as provided in chapter 23 of the Election Law, MCL 168.491 to 168.530, and as provided in sections 5 and 6 of this order.

5. An individual seeking to register to vote in-person at the office of the clerk of the city or township in which the individual resides is strongly encouraged to contact the clerk's office before doing so. To facilitate the timely processing of applications to register to vote and to minimize social interaction, beginning on April 21, 2020 and continuing through May 5, 2020, a township or city clerk may accept copies of applications to register to vote and residency verifications by mail, email, or facsimile for purposes of registration and verification by the clerk.

6. A clerk processing an in-person application to register to vote, any in-person voting in the clerk's office, and any individuals in the clerk's office must use best practices to mitigate the spread of COVID-19 and must comply with any applicable restrictions or requirements to that effect.

7. Any application to register to vote that is properly submitted beginning on the effective date of this order and continuing through May 5, 2020 by a voter residing in a jurisdiction holding an election on May 5, 2020 must also be considered a request for an absent voter ballot for the May 5, 2020 election.

8. Strict compliance with rules and procedures under section 646a of the Election Law, MCL 168.646a, is temporarily suspended for the limited purpose of permitting a political subdivision of this state that has certified a ballot question for placement on the ballot on May 5, 2020 to withdraw the ballot question. Removal of the question must be by the same method used by the local legislative body to certify the question to the ballot (such as by the adoption or rescission of a resolution or ordinance). If the county clerk is notified of the withdrawal by March 27, 2020, the ballot question must not be canvassed for the May 5, 2020 election. Ballot questions removed from a May 5, 2020 election may be submitted to voters at the August 4, 2020 or a later election date.

9. The Department of State may assist local clerks, county clerks, and election administrators with: the mailing of absent voter ballot applications with a postage-prepaid, pre-addressed return envelope to each registered voter within any jurisdiction conducting a May 5, 2020 election; the preparation of postage-prepaid absent voter ballot return envelopes; the coordination of county and state assistance in processing ballots; changes to election dates; and other local clerk functions to the extent local jurisdictions are unable to perform them.

10. This order is effective immediately.

Given under my hand and the Great Seal of the State of Michigan.

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