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EXECUTIVE ORDER

Amending and Extending Executive Orders D 2020 065 and D 2020 103 in Light of the Colorado Supreme Court's Decision in *Ritchie v. Polis*

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq*., I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order amending and extending Executive Orders D 2020 065 and D 2020 103 ordering the temporary suspension of certain regulatory statutes concerning signature collection for ballot issues and authorizing the Secretary of State to create temporary rules to allow for mail and email signature collection due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, and D 2020 125. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

We must take action to minimize the duration of this epidemic and the disruption to our daily lives. The virus that causes COVID-19 is spread primarily by close contact between people and through respiratory droplets when an infected person coughs or sneezes. Public health experts recommend we practice "social distancing," or maintaining a physical distance of six (6) feet or more from other people, as a way to slow the spread of COVID-19.

On April 26, 2020, I issued Executive Order D 2020 044, Safer at Home, as amended and extended by Executive Order D 2020 079. On June 1, 2020, I issued Executive Order D 2020 091, Safer at Home and in the Vast, Great Outdoors, as amended

and extended by Executive Order D 2020 123. These Executive Orders limit in-person activities, which imposes a significant hurdle for ballot petition circulators, who play an essential role in our democratic republic and have significant and determinative barriers due to State and local public health orders that prevent them from the normal statutory conduct of in-person signature gathering.

To preserve our constitutional principle of ballot access, I issued Executive Order D 2020 065, as extended by D 2020 103. These Executive Orders temporarily suspended statutory provisions requiring registered electors to sign ballot issue petitions in the presence of a petition circulator, and authorized the Secretary of State to issue rules that allow for signature collection in a manner that protects the public's health while the COVID-19 disaster emergency declaration is in place. My goal with the Executive Orders was to protect Coloradans' constitutional right to shape their government through the initiative and referendum processes without risking their health or the health of others.

On July 1, 2020, the Colorado Supreme Court held in *Ritchie v. Polis*, 2020 CO 69, that the prior practice under article V, section 1 of the Colorado Constitution requires that ballot initiative petitions be signed in the presence of the petition circulator. The Court ruled that this requirement cannot be suspended by Executive Order. This Executive Order addresses the Court's decision by amending Executive Orders D 2020 065 and D 2020 103 so that each provision in Section II with the exception of Section II.B is deleted. Section II.B, which does not pertain to the requirement of in-person presence of petition circulators, is extended for an additional thirty (30) days.

II. <u>Amendments</u>

Executive Order D 2020 065, as extended by D 2020 103, is amended as follows:

i. Delete Sections II.A, II.C, II.D, II.E, II.F, II.G, II.H, II.I, II.J, and II.K.

ii. Section II.B. is extended for thirty (30) days.

III. Duration

Executive Order D 2020 065, as extended by Executive Order D 2020 103 and as amended and extended by this Executive Order, shall expire thirty (30) days from July 10, 2020, unless extended further by Executive Order. In all other respects, Executive Order D 2020 065, as extended by Executive Order D 2020 103, shall remain in full force and effect as originally promulgated.

GIVEN under my hand and the Executive Seal of the State of Colorado, this tenth day of July, 2020.

Jared Polis
Governor