

DECLARATION OF SECRETARY OF THE STATE DENISE W. MERRILL

I, Denise Merrill, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am Secretary of the State for the State of Connecticut. I was first began serving in that role on January 5, 2011, and I was elected to my third term as Connecticut's 73rd Secretary of the State on November 6, 2018. My office is in Hartford, Connecticut.

2. As Secretary of the State, one of my most important responsibilities is administering, interpreting, and implementing election laws and ensuring fair and impartial elections for both state and national elections held in Connecticut. My office's Elections and Voting Division develops and promulgates the state's elections calendar; coordinates closely with local Town Clerks and Registrars of Voters to promote voter registration and to maintain accurate voter rolls; provides training for local election officials; and oversees and administers other election-related initiatives including, in 2020, the use of secure ballot drop-boxes and the sending of mail-in ballot applications to every eligible Connecticut voter.

3. Connecticut expends considerable resources to promote fair and impartial elections in which every voter has a full and equal opportunity to vote safely and securely. In 2020, my office has spent at least \$500,000 on voter education, and a dedicated staff of 13 has spent the past six weeks entirely focused on promoting the right to vote across Connecticut.

4. My experience as Secretary of the State includes a term as president of the National Association of Secretaries of State (NASS). I have served as co-chair of NASS's Election Infrastructure Subsector Government Coordinating Council, and I currently serve on the Board of Advisors to the U.S. Election Assistance Commission. Prior to my election as Secretary of the State, I served as a Connecticut State Representative for 17 years, including a term from 2009-2011 as Connecticut's House Majority Leader.

5. I have compiled the information in this declaration through personal knowledge and through review of documents and information provided to me by my staff.

6. Connecticut has responded to the Covid-19 public health crisis, which has infected more than 46,000 people and killed more than 4,300 in the state, by expanding mail-in voting to help every eligible resident vote safely and securely in the 2020 primary and general elections.

7. Connecticut law limits voting by mail to cases of absence, illness, disability, or religious objection. Because of this limitation, state officials generally, and my office specifically, usually refers to voting by mail as “absentee” voting, even though a voter need not be absent from the jurisdiction in order to vote by mail. For the purposes of this Declaration, I will use the more inclusive term “mail-in voting.”

8. Article VI, § 7 of the Connecticut Constitution provides that the General Assembly may enact laws authorizing mail-in voting by “qualified voters of the state who are unable to appear at the polling place on the day of election because of absence from the city or town of which they are inhabitants or because of sickness, or physical disability or because the tenets of their religion forbid secular activity.”

9. Following the state Constitutional grant of authority, the Connecticut General Assembly passed Conn. Gen. Stat. § 9-135, which allows mail-in voting when an elector is “unable to appear at his or her polling place during the hours of voting” because of any of a set of enumerated reasons including “his or her illness.”

10. In a special session in July of 2020, Connecticut’s General Assembly passed Public Act No. 20-3, which in relevant part amends Conn. Gen. Stat. § 9-135 to provide that, for the purposes of the November 2020 election, the ongoing pandemic – and the fear of contracting

“the sickness of Covid-19” – is a valid reason for any eligible Connecticut resident to vote by mail.

11. In response to the new law, my office intends to send a mail-in ballot application to every registered voter in the state – a total of more than 2.1 million people – in the runup to the November 3, 2020 election. While my office sends the applications, they must be returned – using pre-paid return envelopes, for which the state of Connecticut expects to spend approximately \$1 million in the general election – to the town clerks in each of Connecticut’s 169 municipalities. These clerks, in turn, are responsible – directly or through a contracted mail processing house – for processing the applications and sending mail-in ballots to eligible applicants.

12. With the exception of blank ballots sent to voters overseas and to service members in the armed forces, those mail-in ballots cannot be sent to voters until October 2, 2020. Conn. Gen. Stat. §§ 9-135, 9-140. While absentee ballots can be requested – by mail or in person – until the day before the election, state law only allows Connecticut to count ballots that are received by 8 p.m. on election day.

13. I expect a record-breaking volume of mail-in voting in the November, 2020 election, as state residents continue to reduce coronavirus exposure and the risk of Covid-19 sickness by avoiding the prolonged social contact that often comes with in-person voting. In the state’s primary election, held on August 11, 2020 under similar rules to those that will be in place in November, mail-in voting exceeded prior-year benchmarks by a factor of 10, with nearly 57% of Connecticut voters using mail-in ballots. I anticipate that use of mail-in ballots in November’s general election will meet or exceed August’s historic highwater mark.

14. To try and ensure that every vote will be counted, my office has coordinated the placement of at least one secure ballot drop box in each of the state's municipalities. But I anticipate that, in November as in the August primary election, the United States Postal Service (USPS) will be called upon to deliver a significant portion of election-related mail at four key points in the process: Ballot application delivery from the Secretary of State; ballot application return to town clerks; printed ballots sent by town clerks to voters; and completed ballots returned by voters to town clerks. While drop boxes are an important and completely secure alternative to submitting ballots by mail, they are not a perfect substitute: Among other reasons, they may be relatively inaccessible to elderly voters with limited mobility and voters with disabilities.

15. On July 31, 2020, my office received a letter from Thomas Marshall, USPS' General Counsel, warning of a "mismatch" between Connecticut's mail-in voting process and USPS delivery standards. Among other things, Mr. Marshall advised that a completed mail-in ballot sent by First-Class Mail should be sent by Tuesday, October 27 in order to be received on time for a November 3 election.

16. To my knowledge, USPS has never before warned Connecticut that USPS will take seven days to deliver in-state, First-Class, election mail. Such a delay cannot be attribute to Connecticut's size. Connecticut is the third-smallest state in the country, measured in square miles. The distance between Greenwich, on Connecticut's western border, to Stonington, on the state's eastern border, is just 106 miles – a drive of less than two hours on the interstate highway. And, as the above explanation of Connecticut's voting process indicates, completed ballots are sent by voters to local election officials within their own towns or cities – a short distance, given

Connecticut's compact size. Our largest municipality by geographic area, the city of Danbury, is just 41 square miles.

17. Unfortunately, though, my office has every reason to fear that the unprecedented USPS warning reflects an unprecedented reality: I am deeply concerned that, without decisive action, mail delays may deprive some Connecticut residents of the right to vote in the 2020 General Election.

18. My office has received numerous complaints from Connecticut residents who timely requested mail-in ballots for our August primary, but whose ballots did not arrive through USPS until Election Day had passed. The residents, in those instances, were either forced to vote in person – risking exposure to the coronavirus – or else were not able to vindicate their right to vote.

19. It is important to stress that, in my years of experience overseeing Connecticut elections, those mailing delays are unprecedented. Until this August's primary election, it was routine for ballot applications and completed ballots to reach their intended destination in two days. But this year, mailing times were often longer – sometimes significantly longer – and those new delays cost our residents dearly.

20. In previous years Connecticut postal workers have accorded special priority status to election mail, ensuring that the mail reaches its destination promptly. In my understanding, the USPS no longer plans to use that special priority coding for Connecticut's election mail this November. I am deeply concerned that the turn away from prioritizing election mail will exacerbate the delays that we saw in August, threatening the voting rights of even more Connecticut residents.

Executed this 18 day of August, 2020 at Hartford, CT.

Denise W. Merrill
Secretary of the State



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