

STATE OF COLORADO  
Department of State  
1700 Broadway  
Suite 200  
Denver, CO 80290

April 25, 2018

RE: Working Draft of Proposed Rules Dated 4/25/2018 Concerning 8 CCR 1505-1

Secretary of State Williams:

Thank for providing us with your “Notice of Proposed Rulemaking” concerning these rules and invitation to comment. We view the rulemaking quite favorably, as we are happy to see the Secretary of State’s office taking strides to ensure that all eligible voters, including those who are confined but eligible nonetheless. In that spirit of that end, we believe the proposed rulemaking needs to be improved slightly.

Specifically, Proposed Rule 2.18.1 provides:

**BEFORE EACH ELECTION, BEGINNING WITH THE 2018 GENERAL ELECTION, THE COUNTY CLERK MUST COORDINATE WITH THE SHERIFF OR HIS OR HER DESIGNEE AT EACH COUNTY JAIL OR DETENTION CENTER IN THE COUNTY TO PROVIDE CONFINED ELIGIBLE INDIVIDUALS AN OPPORTUNITY TO REGISTER TO VOTE.**

(emphasis added). And Proposed Rule 7.5 provides:

**BEGINNING IN THE 2018 GENERAL ELECTION, THE COUNTY CLERK MUST MAKE EFFORTS TO COORDINATE WITH THE SHERIFF OR HIS OR HER DESIGNEE AT EACH COUNTY JAIL OR DETENTION CENTER TO FACILITATE VOTING FOR ALL CONFINED ELIGIBLE ELECTORS.**

The proposed rulemaking goes on to help do this in part with its provisions in Rule 7.5.1 requiring county clerks to provide for how they’ll facilitate voter registration and the provision of mail ballots to confined, eligible electors.

This falls short of the mandate proposed in Proposed Rule 7.5, however. By only including provisions for voting through the use of mail ballots for confined individuals, these rules leave the ability of certain confined eligible voters up in the air. Those confined eligible voters consist of those who either 1) fail to register to vote more than 7 days in advance of election day or 2) fail to update their voter registration address to their place of confinement more than 7 days in advance of election day. That’s the case because there’s no explicit language providing such eligible voters with a guaranteed workaround to the requirement that a voter be registered at the address at which they wish to receive a mail ballot more than 7 days prior to election day in order for them to receive a mail ballot.

Eligible Coloradans who are confined in that 7 day window presumably have no way to avoid this scenario. Regardless, all confined eligible voters should stand on equal footing with eligible Coloradans who are not confined in terms of their ability to vote. Coloradans who are not confined have the additional options of 1) voting in person, 2) obtaining a mail ballot in person, or 2) voting pursuant to the emergency voting provisions contained in C.R.S. 1-7.5-115.

I'm requesting that the proposed rulemaking address this scenario explicitly. It seems that the easiest way to do so would be through an amendment to 8 CCR 1505-7.4's emergency voting provisions. As C.R.S. 1-7.5-115 already affords persons "confined...in a place of residence" (residence is not a defined term) the opportunity to utilize these provisions, this seems a natural solution.

Thank you again for the opportunity to comment. I look forward to its consideration by your office.

Sincerely,

Jason Legg

