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Voting During the Pandemic: How Tennessee Elections are Adapting to Covid-19

Tennessee voters heading to the polls this year will see a number of enhanced safety measures at in-person polling places -- from election officials in personal protective equipment (PPE) to socially-distanced lines. However, the greatest change to the 2020 elections in Tennessee, as in most states, will likely be the increased number of voters casting an absentee ballot, as more Tennesseans choose to vote from home due to health concerns over Covid-19.

In this brief, we will summarize the series of court rulings that led to changes in absentee voting eligibility, describe the impact of new absentee guidelines on voter turnout in August and expectations for November and share how the changes to Tennessee's absentee voting policies compare to those happening elsewhere across the country.

What Happened During the August 6 Primary?

After Court Rulings, Tennessee Updated Absentee Eligibility Guidelines in Response to Covid-19

This June, the Tennessee legislature voted down a bill that would have updated the list of allowable excuses to request an absentee ballot to include voters with concerns over in-person voting due to Covid-19.(i) While Tennessee law provides a number of excuses that would have covered certain Covid-19 vulnerable groups, such as voters 60 and older and voters or caretakers of those ill or with a disability, it did not afford every Tennessee voter with the option to vote absentee during the pandemic.

Over the summer, the state's unchanged absentee eligibility guidelines were challenged in a Davidson County Chancery Court, resulting in the issuance of a temporary injunction adding new language to the qualifying excuses to request an absentee ballot. Per the court's order, a registered voter could "determine it is impossible or unreasonable to vote in person due to the Covid-19 situation" and be eligible to vote absentee.

Thus, during the August primary, any registered Tennessee voter had the option of voting absentee.

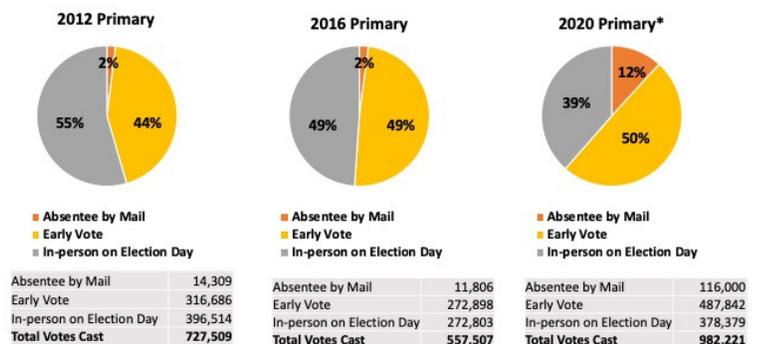
The August Primary Saw Record Absentee Turnout, No Major Reporting Delays and Safe In-Person Voting

Typically, absentee ballots make up only about 2% of votes cast in Tennessee. Yet at least 12% of August voters cast absentee ballots.(ii)

Voters who chose to vote in person experienced polling places practicing social distancing, poll workers wearing PPE and touch-less voting.

Even with the increased by-mail ballots and safety precautions, counties reported no major issues or delays in reporting initial vote tallies.

Tennessee Primary Voters by Voting Method, 2012-2020



*2020 election results are unofficial. Per *The Tennessean*, the 116,000 absentee vote figure is the latest estimate from August 5.

Additional Court Rulings Have Changed Absentee Eligibility Yet Again

Voters or caretakers of those with underlying health conditions are eligible to vote absentee.

The Tennessee Supreme Court overturned the Chancery Court's earlier injunction, which had allowed August voters with concerns about in-person voting due to the pandemic to request an absentee ballot. During oral arguments, the state revealed that it now considers the existing "illness" excuse to cover voters with underlying conditions that make them more susceptible to Covid-19. Thus, the latest ruling returned to the initial excuse guidelines but expanded the definition of "illness."(iii)

First-time voters who register by mail and are otherwise eligible may vote absentee in November.

The U.S. District Court for Middle Tennessee issued an injunction blocking a law that prevented voters who registered to vote by mail, *i.e.*, not in person, from voting absentee in their first election. First-time voters who registered by mail can now submit a copy of their ID -- either a Tennessee or federally issued photo ID or a current utility bill, bank statement or other government document showing their name and address -- with their absentee ballot.(iv)

Will Policies Change Again Before November?

Tennessee's policies likely won't change before November. While not expected, it would, however, be possible to modify election laws in the event of an emergency. The governor could call a special session of the General Assembly or issue an Executive Order to suspend current laws or rules. Alternatively, additional changes could occur through the courts -- for example, if the state appeals recent court rulings. Voters should contact their local county election commission to find out the latest information.

State and County Election Officials Investing Federal Dollars in Election Preparation

Officials released an election contingency plan this spring recommending counties prepare for August and November elections by: expanding poll worker and polling place recruitment in light of health concerns, preparing in-person polling places with adequate social distancing and PPE and preparing for a 100% increase in absentee ballots, particularly by voters 60 and older.

These efforts were supported by \$9.6 million in federal and state-matched funding allocated through the Coronavirus Aid Relief and Economic Security (CARES) Act in March. As of late August, the state had spent 73% of the funding on subgrants to counties, increased absentee ballot capacity, PPE and poll worker recruitment. The state plans to use the remaining \$2.7 million for additional subgrants to counties for additional November needs.(v)

These funds are in addition to other federal dollars the state has available to support election administration, which as of May 2020 was estimated to be an additional \$46 million.

HOW TO CAST A BALLOT IN NOVEMBER

If eligible, voters may vote **absentee by mail**. The last day to request an absentee ballot is **October 27**, but voters should not delay. Ballots must be received **by mail by the close of polls on November 3**.

Voters looking to avoid long lines and crowds can vote early. **Early Voting begins October 14 and ends October 29**.

Voters choosing to vote **in-person on Election Day** will see poll workers in masks, gowns and gloves, will practice social distancing and may experience no-touch voting.



Check [GoVoteTN.com](https://www.GoVoteTN.com) for official Tennessee election information!

Election Results May Take Longer to Report

Because of Covid-19, more people will be voting absentee than ever before, in Tennessee and around the country. With security measures and verification processes, it will take election officials longer to verify and count absentee ballots than votes cast in person at polling places. What's more, in some states -- including Tennessee -- state law prevents election officials from beginning to process absentee ballots until polls open on Election Day.

Because of this, it is important to know that election results may not be shared on election night as we have become accustomed to. Election officials will be working to count and verify every ballot, and that is a sign that our democracy is working.

How Are Other States Adapting Elections In Response to Covid-19?

Almost all states have made revisions to their traditional absentee policies to make voting more accessible this November.

Changes to Absentee Eligibility Among "Excuse Required" States for November 3, 2020

All but four of the sixteen states typically requiring an excuse to vote absentee are allowing more voters this option in November.

Additional changes to absentee policies in other states may still be possible, as lawsuits remain ongoing.

AL	AR	CT	DE
KY	NH	MA	NY
SC	WV	MO	TN
IN	TX	LA	MS

- Allowing Covid-19 Concerns as an Excuse
- Exceptions for Voters with Underlying Conditions
- Not Expanding Access

Examples of Other Voting Policy Adaptations in Response to Covid-19



Mailing voters absentee ballots or request applications

5 states and DC are mailing registered voters absentee ballots.

More than a dozen are mailing absentee request applications to registered voters.



Extending absentee ballot receipt deadlines

States typically requiring absentee ballots to be received by Election Day are accepting ballots that have been postmarked by Election Day but arrive later: Kentucky (Nov 6), Mississippi (Nov 10) and North Carolina (Nov 12).



Adding absentee ballot drop boxes

Georgia is using federal funds to provide counties over 200 drop boxes protected by physical or camera security where voters can return absentee ballots.



Expanding Early Voting Periods

Some states are lengthening their Early Voting periods: Kentucky increased its 12-day period to 3 weeks, and Texas added 6 days.

NOTES

(i) The Senate State and Local Government Committee discussed SB 0193 / HB 0145 on June 2, 2020. Discussions continued on both the House and Senate floor before both chambers voted down the suggested amendment to temporarily expand the list of allowable excuses to request an absentee ballot to include concerns about the Covid-19 pandemic.

(ii) Final numbers are not yet publicly available. The 12% of votes cast includes a reported 116,000 absentee ballots received as of August 5. It does not include absentee ballots received on August 6, the deadline. See Joel Ebert, "Tennessee shatters record for absentee ballots, with more than 100,000 people voting by mail," *Tennessean* (August 6, 2020), available at <https://www.tennessean.com/story/news/politics/2020/08/06/tennessee-shatters-absentee-ballot-record-more-than-100000-vote-mail/3313905001/>.

(iii) A list of underlying health conditions that make a person more susceptible to Covid-19 can be found at the Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

(iv) More information about first-time voters who registered to vote by mail can be found at the Secretary of State website: <https://sos.tn.gov/products/elections/information-first-time-voters-who-registered-mail>.

(v) Tennessee 2020 CARES Act grant report, available from the U.S. Election Assistance Commission: <https://www.eac.gov/payments-and-grants/2020-cares-act-grants>.