
**SUPREME COURT
OF THE
STATE OF CONNECTICUT**

S.C. 20486

**MARY FAY, THOMAS GILMER,
JUSTIN ANDERSON AND JAMES GRIFFIN**
Plaintiffs - Appellants

v.

**DENISE MERRILL
SECRETARY OF THE STATE**
Defendant – Appellee

APPENDIX PART ONE AND PART TWO

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DOCKET NO. HHD-CV20-6130532

MARY FAY
83 Craigmoor Road
West Hartford, CT 06107

SUPERIOR COURT

THOMAS GILMER
216 Neck Road
Madison, CT 06443

JUDICIAL DISTRICT OF HARTFORD

AT HARTFORD

JUSTIN ANDERSON
157 West Road
Salem, CT 06420

AND

JAMES GRIFFIN
134 Boy Street
Bristol, CT 06010

v.

DENISE MERRILL
Office of the Secretary of the State
165 Capitol Avenue
Hartford, CT 06106

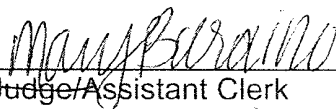
JULY 22, 2020

Present: Hon. Thomas Moukawsher

DRAFT JUDGMENT FILE

This action came to this court by writ, summons and complaint on July 21, 2020, and then to July 22, 2020, when the court, Moukawsher, J., denied the defendant's motion to dismiss and, after a hearing on the merits, entered judgment for the defendant.

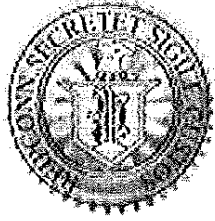
BY THE COURT,



Judge/Assistant Clerk

July 31, 2020

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DENISE MERRILL

SECRETARY OF THE STATE
CONNECTICUT

**GAE Committee
Public Hearing Testimony
March 2, 2012**

Good Morning Chairman Morin, Chairman Slossberg and members of the committee. For the record my name is Denise Merrill and I am Secretary of the State of Connecticut. I wish to thank Governor Malloy and Lt. Gov Wyman for their partnership in proposing and supporting the important reforms that are on your agenda this morning. I would like to briefly address four bills raised before the committee this morning, starting with the substitute language for House Joint Resolution 2:

- **House Joint Resolution 2, Substitute Language:**

This amendment has been proposed before by my office and this year Governor Malloy is proposing it with my enthusiastic support. The substitute language for House Joint Resolution 2 would amend the State Constitution to remove the current barriers in the Connecticut Constitution that allow voting by absentee ballot for only specified reasons. Removal of these barriers would enable the General Assembly to consider other ways to cast a ballot without appearing at your poll on Election Day.

Additional types of non-precinct place voting could include voting by mail, early voting, regional voting, or what we call no excuse absentee balloting, where you would not need a specific reason to use an absentee ballot. This takes the first step towards moving CT into the 21st century by make voting

more convenient for eligible voters with busy lives. Giving voters options other than their polling place on Election Day also has the potential to reduce the pressure on poll workers and moderators at the polls, as the crush of people casting ballots in person on that day might be more manageable.

Underlying this proposal is the principle that voting should be encouraged and we as elected officials should make casting a ballot as easy, efficient, and pleasurable as possible. The 35 states that have implemented early voting or no excuse Absentee ballots see both higher turnout and less pressure on Election Day, which is helpful to local registrars and town clerks.

This amendment empowers the General Assembly to enact whatever type of early voting or absentee ballot reform it feels is best, in consultation with local election officials and looking at best practices from other states. I wish to emphasize that this amendment would not commit the state to any one policy choice, and that current statutory provisions would remain in effect unless and until the General Assembly acts. So this is a multi-step process and our goal is keep all the stakeholders at the table, as we did with the Election Performance Task Force, to see this change through.

We rely on our registrars of voters and town clerks exclusively to administer elections in Connecticut and we value their input as to how any change to voting will work at a practical level. We don't want to rush through this reform; we want to be deliberate, hold hearings, study the best practices in other states, and make the most prudent choice. And should this constitutional amendment get ratified by the voters, we will have about a year to study these changes intently and come up with the best policy that fits our voting system in Connecticut. But make no mistake, the time has come to make this change.

One quick story to illustrate why removing this language from the constitution is so important: after the October snowstorm last fall, we had all kinds of challenges in carrying out the elections scheduled for a week later. One of the most heartbreaking questions I got from a number of registrars of voters and clerks was that they had a resident who was not able to get to their polling place because a tree was down and blocking their road, or this resident was stuck at a shelter in town and would not be able to get to their polling place on Election Day. The Registrars and Clerks wanted to know, could these citizens vote by absentee ballot? And I had to tell them no because under our current absentee ballot laws, these kinds of emergencies do not qualify as

one of the reasons in the Constitution or our statutes for someone to vote by absentee.

In fact, a spouse who is a caregiver to their husband or wife who does not want to leave their ailing spouse's bedside is not even allowed to vote by absentee ballot. This is wrong and needs to change. The only way to do it is to open up our state constitution through this amendment and enact some sort of non-precinct place voting. That would really help bring Connecticut elections into the 21st century and would serve our voters much better by giving them multiple options to cast ballots.

- **Raised Bill 27 “AN ACT TRANSITIONING THE REGULATIONS OF CONNECTICUT STATE AGENCIES TO AN ONLINE FORMAT”**

This is a major government modernization initiative and I strongly support Governor Malloy's efforts to make all agency regulations available to the public online. This is something that will help not only our citizens, but our businesses, the news media, and members of the bar.

As I hope you are aware, the Secretary of the State's office is committed to increasing public access to all public records by providing online access to all records stored in our office. As you can imagine, this service would be a major state undertaking, as many of the regulations not only in our agency but in many state agencies are on paper and amendments to regulations are not necessarily stored in the same file with the original. To successfully accomplish a project of this scale, we are going to need some resources. I am talking about an investment of money, and we would need to hire professional staff to accomplish the goal as the bill is currently written. And this is going to take time.

There would be a major cost at the beginning to establish this online database, with the maintenance and personnel costs to continue over time. This project will also require the collaboration of other offices, such as LCO, the Judicial Branch, and other executive branch agencies. So in general, I strongly support this concept, and look forward to collaborating with this committee and Governor Malloy on how we achieve this milestone and move regulation record keeping into the 21st century.

- **Raised Bill 5022 “AN ACT INCREASING PENALTIES FOR VOTER INTIMIDATION AND INTERFERENCE”**

This bill would take some important steps to safeguard our citizens’ right to vote by equalizing penalties for the types of voter suppression or intimidation with penalties we currently impose for other types of voter fraud. I want to make clear that we in Connecticut really have no established track record of widespread, consistent voter intimidation or suppression such as other states have seen. But it is important to remember that by establishing a penalty for a criminal act, we are making a public policy statement about how seriously we take that crime.

And I think we should have absolutely zero tolerance for people who would do anything to intentionally intimidate or improperly influence the sacred right of a Connecticut citizen to cast their ballot privately and independently. We should take these crimes just as seriously as we take other election crimes, so this can serve as a deterrent effect. There is a whole chart of what specific penalties would address what specific crimes, but let me give you an example.

Under current state law, someone convicted of the felony of fraudulently misrepresenting themselves at the polls – claiming they are someone they are not – faces a maximum penalty of five years in prison and a \$5,000 fine. However, under current law someone who by threat of force or bribery attempts to influence the choice of a voter would only face a maximum sentence of ONE year in prison and a fine of \$1,000. It is important to send the message that we view the crime of tampering with the vote as equally egregious as the serious crime of voter fraud. So this bill increases the maximum penalty for this type of voter intimidation and threatening or bribery to 10 years in prison and a \$10,000 fine.

This bill would, I believe, create a chilling effect on tampering with elections in Connecticut and I urge passage.

- **Let me now turn my attention to Raised bill 5024 “AN ACT CONCERNING VOTING RIGHTS”**

I would like to talk about this landmark bill in two sections; sections that share the twin goals of expanding voter participation and removing barriers to the ballot box. Raised bill 5024 would do two very important things: enact Election Day Registration in Connecticut and enable eligible voters in our state with a driver's license to register to vote online from any computer. These are very simple steps that have been adopted in a number of other states with great success and higher voter turnout to show for it. I have been travelling the state listening to voters and election administrators for almost two years. I am heartened that many people think these reforms are long overdue modernization of how we vote. Others are going to tell you these reforms go too far. Let me explain to you why I believe these steps are needed and can readily be accomplished within our current election administration framework in Connecticut.

Let's look at online voter registration. Online voter registration has the potential to not only mean much more convenience for Connecticut voters, but it will also mean more accurate voter lists, and a significant savings for Connecticut taxpayers. I want to be absolutely clear about this: online voter registration DOES NOT mean online voting. And this DOES NOT replace the paper registration system but there are nine states that have implemented online voter registration.

Here is how it works: currently there are approximately 2.5 million Connecticut residents who have a driver's license or some form of state ID issued by the department of motor vehicles. We have just under two million registered voters in Connecticut. In order to be issued a driver's license, you need to give identifying information to the DMV – your address, your date of birth, whether or not you are a citizen, and your signature. When you are issued a license, you also receive a driver's license number. This is the same information as you are required to give in order to register to vote.

So the idea behind this concept is – we get the two databases of information to talk to each other. Since an eligible voter who has a driver's license already has their information contained in one state database – why should they need to start from scratch in order to register to vote? So through this legislation, a voter would go online to our website www.sots.ct.gov and log into a page where they can register to vote.

They will be asked for certain identifying information – likely name, date of birth, and driver’s license number. Then they will hit submit and instantaneously, their information will be cross checked with their information on file at the DMV. If the information matches, a pre-populated voter registration form with the information entered will appear on voter’s computer screen. This form will contain the image of the voter’s electronic signature as it appears on your driver’s license.

You then fill out the online form, attesting that you are a U.S. Citizen, and you are asked if you want to register with a political party – the same exact thing as you would fill out on a paper voter registration form. You then click ‘SUBMIT’ and this completed voter registration form is sent in the form of an email attachment to the registrars of voters in your town. The Registrar of Voters then reviews the registration and if everything looks good, they click accept in the email. And with the click of a mouse, that voter is now registered and directly entered into our Centralized Voter Registration System.

I want to illustrate a couple of the benefits of this idea but before I do that – let me assure you that there will be tight security safeguards in place and if any of the information originally entered by the voter is not correct or does not match what is contained in the DMV database – that registration is not processed. So this has the potential to make our voter registration lists in every town far more accurate. This is more accurate because people move around a lot more, and if they are entering in their own data, it is more accurate than someone else entering in the data with the potential for error.

One of the recommendations from the Election Performance Task Force that I convened is that we study the cost of elections. There is a strong example from the state of Arizona that shows online voter registration to bring a significant cost savings for taxpayers. In Arizona they estimated that the paper voter registration system cost about 85¢ to process each voter registration application, with local government bearing much of that cost. Once they implemented online voter registration, that cost dropped dramatically to only three to four cents per application. That could be a significant savings for our towns – especially if you look at hundreds of thousands of new voters registering over the course of a typical presidential election year like 2012.

One other point I want to make, which is budgetary: my office has already received bond funds to make technological upgrades to our Centralized Voter Registration System, so we look forward to implementing this new system right away. So I would urge passage of this bill, it would be a major modernization and improvement in convenience for voters in Connecticut that would make our voter registration list more accurate and save money for our towns.

Now, I want to look at the other aspect of raised bill 5024: Election Day Registration. This is not new concept in Connecticut or in this committee. In fact, my Deputy Secretary of the State James Spallone sat where you are now sitting representative Morin the last time this concept was raised in 2009. The concept of Election Day Registration is not even new in the United States – it has been law in Maine since 1971 – in Wisconsin since 1976, and is law in about a dozen other states. This is not a political issue – ‘Red’ states such as Idaho, North Carolina, and Montana, as well as our fellow New England states of New Hampshire and Maine, as previously mentioned.

I think many of you on the committee understand the concept of being able to register on Election Day and cast a ballot that same day. Let me touch on the framework this bill establishes for how this would work in Connecticut. We propose that on Election Day – for a general election only, it does not apply to primaries, special elections, or budget referenda -- an eligible voter would be able to go to their town hall and present the proper identifying information which I spoke about previously.

The Registrar of Voters then processes their application and enters their information into the centralized voter registration system. If everything is correct, that person is now a registered voter and they are then given a ballot and can go vote in a designated, secure space within town hall. This is different than other states that have election day registration, where voters can register and vote at their polling place.

The way we have envisioned it for Connecticut is a more secure option because by entering the voter directly into the state database, the Registrar can instantly tell if the voter is Registered in another town. This way they can also tell if you have already voted somewhere else in Connecticut. It would also make the voter list more accurate and cut down on inadvertent spelling errors that can prevent someone from voting. In any case, once the voter is registered

and votes in a secure room at town hall, they then place their ballot in an envelope, which is then given to the Registrar of Voters. Once taken out of the envelopes, the Election Day Registration ballots are counted by machine in the same way that absentee ballots are counted.

Let me speak about a few of the benefits of this law and then I will be happy to take questions: first of all, we would clearly open the door to more voter participation. One indication for Connecticut is the presidential ballot – where federal law allows eligible but not registered voters to cast a ballot for president of the United States. In 2008, we had some 35,000 presidential ballots issued in Connecticut. In fact, that same year, states with EDR reported a 7% higher turnout than those without EDR. Those who benefit most from EDR include populations with higher mobility—including the young, minorities and low-income populations. In November 2011, nearly 60% of Maine citizens voted in a referendum to restore EDR after legislation repealed it.

Election Day Registration may actually deter voter fraud for several reasons: it is conducted in person with election officials as witnesses, as opposed to being permitted to submit a registration through the mail or a third party. Those registering on Election Day are required to submit proof of their identity and residence to election officials. Registrars are required to check the statewide centralized voter registration system. If the applicant is registered in another Connecticut town, the registrar must immediately notify the other town's registrar, who will remove the voter from that town's list and verify whether the applicant has already cast a vote in his previous town.

EDR will also reduce problems on Election Day. For example, currently, if someone tried to register through a voter registration drive and the card did not make it to the registrar on time, they will not be on the list and at best would file a provisional ballot. With EDR they can register and vote despite the failure of the system to process their card. EDR can also help with situation involving change of name, mis-entered data and other confusion that arises in a human run system.

One other virtue of this legislation I want to extol is the timing of how we would roll this out. If enacted into law this year, Election Day Registration would first be able to be used in November 2013 for a relatively low-turnout municipal election. Then it could be used again in the state election of 2014,

another municipal election a year later, and then finally for the Presidential election of 2016. So there is plenty of time to work out all of the bugs in the new system before we get to another high turnout election statewide.

Let me wrap up my testimony on this very important bill by simply saying that I believe we have a crisis of low voter participation in our country and our state. One in three eligible voters in Connecticut is not even registered to vote. We need to make voting as easy as possible for those who have this right. And we now have the technology to make this happen in a secure way that will not only increase voter turnout but also reduce costs for our towns and modernize and streamline election administration in Connecticut.

This is one of those times when Connecticut needs to once again claim its place on the cutting edge of reform and technology. There is simply no reason for us to lag behind. If these systems can work well in states like Wisconsin or North Carolina, there is no reason they shouldn't work well in Connecticut. Thank you and I am happy to answer questions.



LEAGUE OF WOMEN VOTERS OF CONNECTICUT, INC.

CGA Government Administration and Elections Committee

February 25, 2013 Public Hearing

Comments provided by: Susan Voris, Election Laws Specialist, League of Women Voters of Connecticut

Support for: HJ 36 – Resolution Approving An Amendment to the State Constitution to Grant Increased Authority to the General Assembly Regarding Election Administration.

My name is Susan Voris. I am the Election Laws Specialist for the League of Women Voters of Connecticut. As a state-wide organization with over 1600 members, the League is dedicated to improving the electoral process.

During the 2012 session, the General Assembly passed HJ 2 – Resolution Proposing an Amendment to the State Constitution to Allow For No-Excuse Absentee Voting. HJ 2 became Resolution Act No. 12-1. This was the first step in a process. Since a super majority did not pass HJ2, a similar bill passed by a majority during second consecutive year is required to become a constitutional question on the November 2014 ballot. Changing the Constitution to amend the electoral process is a cumbersome endeavor. The League believes that the Connecticut Constitution should acknowledge the elections; however, we also believe the General Assembly should make the laws regarding elections.

Referring to Section 1 of the resolution to amend Section 7 of Article Sixth of the Constitution, the League supports measures which assure that absentee ballot privileges are available to all electors - for any reason. The Connecticut Constitution and current law limit the use of an absentee ballots to a handful of specific electors including those who will be out of town during the election, the sick and disabled, those whose religious tenets prohibit them from going to the polling place and election workers who may be working at a polling place other than their own. It penalizes other electors who may in fact benefit most from using these ballots such as first responders, commuters, family caregivers or the parents of young children. A first responder, who works in the same community where he lives, may be on duty and unable to make it to the polls. A commuter by the letter of the law must be outside the town limits before 6 a.m. and not return until after 8 p.m. in order to qualify for an absentee ballot. A late train or an accident on the highway could make that commuter late in returning to his community. A caregiver for a sick or disabled family member who qualifies for an absentee ballot, cannot seek his or her own absentee ballot and must find a substitute caregiver or give up his or her right to vote in an election. While these voters may have the intent to make it to the polls, their situations can be unpredictable; under current absentee ballot rules, their right to vote may be denied to them. The law's intent should be to increase voter participation, not disenfranchise our electors by putting up obstacles to voting.

Passage of HJ 36 and approval of the amendment by the electorate would remove the restrictions on absentee ballots from the Connecticut Constitution and allow the legislature to determine the rules for absentee ballots including extending absentee ballot privileges to all electors. The General Assembly should recognize that absentee ballots have been used

in Connecticut for many years and the process is well established. The League urges the Committee to support HJ 36 and encourages continued strong measures and strict penalties to ensure there is no undue influence or voter fraud in the use of these ballots.

In reference to Section 2 to amend Section 4 of Article Fourth of the Constitution and Section 3 to amend Section 9 of Article Third of the Constitution, the League supports the language changes that continue to support transparency in election reporting. We believe that the elimination of a time line for the punctual submission of election results is prudent because those time lines are dictated under the state statutes. We believe the removal of these time lines is consistent with the removal of the restrictions for absentee ballots in Section 1 and gives our elected representatives the option to debate appropriate time lines under the state statutes.

The League urges the Committee to support HJ 36.

Thank you for the opportunity to comment.

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Louis DeCilio, Stratford

File No. 2017-057

FINDINGS AND CONCLUSIONS

The Complainant brought this matter alleging that the Respondent Linda Palermo unlawfully voted by absentee ballot by wrongly claiming to be an election official during all hours of voting on her absentee ballot application.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

Allegation and Factual Background

1. The Complainant here alleges that during the September 12, 2017 Municipal Primary in the Town of Stratford, Respondent Linda Palermo voted by absentee ballot, claiming that her status as an unofficial or “party” checker in the polling place during all hours of voting permitted her to vote by absentee ballot as an elections official.
2. The Respondent here did not deny the basic factual allegation, that she voted by absentee ballot in Stratford during the September 2017 Municipal Primary and that as an unofficial “party” checker for candidate Stephanie D. Philips.
3. The investigation confirmed that on or about September 11, 2017, Respondent Palermo submitted an Absentee Ballot Application to the Stratford Town Clerk, asserting in Section IV that she believed that she was eligible for an absentee ballot due to “My duties as a primary, election or referendum official at a polling place other than my own during all the hours of voting.”
4. The investigation also confirmed that Respondent Palermo was a paid campaign worker for the “Stephanie for Mayor” campaign committee supporting Ms. Philips’ campaign for mayor. The campaign finance disclosure statement for this committee lists Respondent Palermo’s duties as “Unofficial Poll Checker and Phone calling.”

Law

5. General Statutes § 9-135 reads, in pertinent part:

(a) Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he or she is unable to appear at his or her polling place during the hours of voting for any of the following reasons: (1) His or her active service with the armed forces of the United States; (2) his or her absence from the town of his or her voting residence during all of the hours of voting; (3) his or her illness; (4) his or her physical disability; (5) the tenets of his or her religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his or her duties as a **primary, election or referendum official**, including as a town clerk or registrar of voters or as staff of the clerk or registrar, at a polling place other than his or her own during all of the hours of voting at such primary, election or referendum.

(b) No person shall misrepresent the eligibility requirements for voting by absentee ballot prescribed in subsection (a) of this section, to any elector or prospective absentee ballot applicant... (Emphasis added.)

6. General Statutes § 9-258 reads, in pertinent part:

(a) For municipalities with more than one voting district, the election officials of each polling place shall be electors of the state and shall consist of one moderator, at least one, but not more than two official checkers, two assistant registrars of voters of opposite political parties, each of whom shall be residents of the town, not more than two challengers if the registrars of voters have appointed challengers pursuant to section 9-232, and at least one and not more than two ballot clerks and at least one but not more than two voting tabulator tenders for each voting tabulator in use at the polling place. A known candidate for any office shall not serve as an election official on election day or serve at the polls in any capacity, except that a municipal clerk or a registrar of voters, who is a candidate for the same office, may perform his or her official duties. If, in the opinion of the registrar of voters, the public convenience of the electors in any voting district so requires, provision shall be made for an additional line or lines of electors at the polling place and, if more than one line of electors is established, at least one but not more than two additional official checkers and at least one but not more than two ballot clerks for each line of electors shall be appointed and, if more than one tabulator is used in a polling place, at least one and not more than two additional voting tabulator tenders shall

be appointed for each additional machine so used. Head moderators, central counting moderators and absentee ballot counters appointed pursuant to law shall also be deemed election officials.

(b) For municipalities with one voting district, the election officials of such polling place shall be electors of the state and shall consist of one moderator, at least one, but not more than two official checkers, not more than two challengers if the registrars of voters have appointed challengers pursuant to section 9-232, at least one and not more than two voting tabulator tenders for each voting tabulator in use at the polling place and at least one but not more than two ballot clerks. Additionally, such election officials may consist of two registrars of voters of opposite political parties, or two assistant registrars of voters of opposite political parties, as the case may be, subject to the requirements of sections 9-259 and 9-439, provided if the registrars of voters are present in the polling place, they shall appoint at least one designee to be present in their office. A known candidate for any office shall not serve as an election official on election day or serve at the polls in any capacity, except that a municipal clerk or a registrar of voters, who is a candidate for the same office, may perform his or her official duties. If, in the opinion of the registrar of voters, the public convenience of the electors in any voting district so requires, provision shall be made for an additional line or lines of electors at the polling place and, if more than one line of electors is established, at least one, but not more than two, additional official checkers for each line of electors shall be appointed and, if more than one tabulator is used in a polling place, at least one and not more than two additional voting tabulator tenders shall be appointed for each additional tabulator so used. Head moderators, central counting moderators and absentee ballot counters appointed pursuant to law shall be deemed to be election officials... (Emphasis added.)

7. General Statutes § 9-235 reads, in pertinent part:

(a) At least forty-eight hours prior to each election to be held in a municipality, each registrar of voters in such municipality may appoint for each line of electors in each voting district therein, to serve as unofficial checkers, not more than four electors enrolled in the party with which the registrar is enrolled, provided a registrar may establish two or more shifts for unofficial checkers, in which case such registrar may appoint not more than four such unofficial checkers for each line of electors in each district for each shift. The persons so appointed shall be designees of the town chairman of the party with which such registrar is enrolled, provided such

town chairman shall submit the names of such designees in writing to such registrar at least forty-eight hours before the election. A registrar of voters shall, at the request of the town chairman of the party with which such registrar is enrolled, change such appointments of designees of such town chairman, at any time before the closing of the polls on the day of an election.

...
(f) No election or referendum official shall perform the functions of an unofficial checker pursuant to this section (Emphasis added.)

8. This is an issue of first impression for the Commission. However, the law is straightforward in this instance.
9. The default rule of voting in Connecticut is that an elector must vote in person at such elector's designated polling location or such elector's Election Day registration location. Absentee voting is a limited exception to that general rule, which is not only established in General Statutes § 9-135, but also in Section 7 of Article Sixth of the Constitution of the State of Connecticut.
10. In general, exceptions to the law are narrowly construed. See *Commission on Human Rights and Opportunities v. Sullivan*, 285 Conn. 208, 222, 939 A.2d 541 (2008).
11. Reading General Statutes §§ 9-258 and 9-235 together, the Commission concludes that an unofficial checker is not an "election official" for the purposes of the exception in General Statutes § 9-135 (a) (6).¹
12. As such, the Commission concludes that an unofficial checker may not utilize an absentee ballot, unless such person validly qualifies under another exception in General Statutes § 9-135.
13. Considering that this matter is one of first impression, the Commission will take no further action here.

¹ The written advice of the Secretary of the State, per General Statutes § 9-3, also supports this conclusion. See *Moderator's Handbook for Elections and Primaries*, Rev 2.1 – July, 2013 at Section A, pp. A-9 to A-11 (<http://www.portal.ct.gov/SOTS/Election-Services/Handbooks/Handbooks-Moderators-Absentee-Ballot-Counters-Recanvass-and-Audit>)

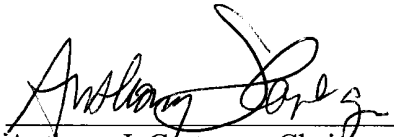
ORDER

The following Order is recommended on the basis of the aforementioned findings:

That no further action is taken.

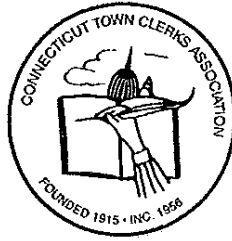
Adopted this ~~14th~~ day of March, 2018 at Hartford, Connecticut.

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Anthony J. Castagno, Chairperson
By Order of the Commission

Connecticut Town Clerks Association, Inc.



TESTIMONY

GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE Monday, February 25, 2013

HJ 36 – Resolution Approving an Amendment to the State Constitution to Grant Increased Authority to the General Assembly Regarding Election Administration.

Good afternoon Senator Musto, Representative Jutila, Senator McLachlan, Representative Hwang and distinguished members of the GAE Committee. My name is Antoinette C. Spinelli and I am the Town Clerk in Waterbury and the Chair of the Legislative Committee for the Connecticut Town Clerk's Association.

I am here today to testify in support of *House Joint 36 – Resolution Approving an Amendment to the State Constitution to Grant Increased Authority to the General Assembly Regarding Election Administration.*

Our Association continues to support election reform that would offer less restrictive voting for Connecticut residents and welcomes the opportunity to participate in the formulation of a well thought out, cost effective plan that includes safeguards and minimizes disenfranchisement.

Following the approval of this resolution and subsequent ballot question, the Town Clerks Association cautions against legislation that would expand vote by mail opportunities to include an all mail or no excuse absentee ballot option. Our Association would support alternatives such as early voting using a tabulator at a designated polling place as long as the proper security procedures and standards are in place.

Our Association has done extensive research on the absentee ballot process and found that in last November's election a large number of towns reported that absentee ballots were not counted or arrived after Election Day. On **average 5-percent** of the absentee ballots were not counted with some towns reporting the rejection of 7 or 8-percent. Absentee ballots are rejected for various reasons. For example, the absentee ballot was received late (after 8:00pm on Election Day), the ballot was not signed, the ballot was missing the inner envelope or missing a ballot, the ballot was not properly delivered. It would stand to reason that if you expand the absentee ballot process to every voter in Connecticut, the number of disenfranchised voters would rise significantly.

Also, under a "no excuse" option, the possibility of fraud is a serious concern. Our Association has had numerous discussions with the State Election Enforcement Commission and we have come to the conclusion that most of the fraud complaints filed are not because of something that happened at a polling place, but rather with something that may have happened with an absentee ballot.

In addition, the majority of absentee ballots now are issued and returned by mail. The elimination of Saturday delivery beginning in August 2013 could prove to be a factor both in sending and receiving ballots in a timely manner.

The Association does recognize a need to expand the existing categories of those eligible to vote by absentee ballot to include caregivers and emergency relief workers. Also, we welcome the opportunity to participate in discussions to develop procedures that would expand the on-line voting option for our military personnel.

The Town Clerks are very interested in the elections process and are eager to be part of the discussions regarding voter participation in Connecticut.

Thank you for this opportunity to testify, I would be glad to answer any questions at this time.

Respectfully submitted,

Antoinette C. Spinelli, CMC, CCTC
Chair, CTCA Legislative Committee

Connecticut Town Clerks Association, Inc.

Committee Members

Mark H. Bernacki, Chair, New Britain
Francesca Villani, Vice Chair, Hebron
Betsy Moukawsher, Groton
Barbara Thompson, Wallingford

Lobbyist: Michael Dugan



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Debra Denette, Immediate Past Chair
Joyce Mascena, Legislative Advisor

Written Testimony of Mark H. Bernacki, CCTC, MBA - New Britain Town & City Clerk Connecticut Town Clerks Association – Legislative Committee Chair

Government Administration and Elections Committee Public Hearing – February 28, 2020
HB 5278, Revising Certain Absentee Voting Statutes

Good afternoon Senator Flexer, Representative Fox, Senator Sampson, Representative France, and the distinguished members of the Government Administration and Elections Committee my name is Mark Bernacki, I am New Britain's Town and City Clerk as well as the Legislative Committee Chair of the Connecticut Town Clerks Association (CTCA).

Over the years CTCA has been supportive of early voting BY TABULATOR and against no excuse absentee ballot voting. It is our understanding the incoming legislative members elected on November 3, 2020 would need to approve a resolution, by a simple majority in both chambers, to allow an early voting Constitutional question to be offered to the electors for their approval on the 2022 statewide ballot.

The members of CTCA are entrusted with numerous election related responsibilities. Their role is vital in ensuring the integrity, fairness and transparency of all Connecticut elections. Connecticut Town Clerks' ascribed responsibilities include the listing of offices and candidates, the verification of petition signatures, the creation of the ballot, the administration of the entire absentee ballot process, the compilation of statistical data and the generation of numerous reports for the Secretary of the State concerning election participation and results.

In Person Early Voting by Tabulator has the support of our membership as differentiated from no excuse absentee voting that does not. ***In Person Early Voting by Tabulator*** permits the voter to vote in person, at a prescribed location, with no excuse necessary as to why the voter cannot vote on the statutorily designated Election Day. The tabulator equipment already used for our elections would be used to accept and tally early votes. The CTCA membership sees this method of voting as an opportunity to expose more voters to the election process by making voting more convenient. CTCA supports this method of early voting that closely resembles the current Election Day voting process.

CTCA projects that early voting that places reliance on the USPS to deliver ballots will result in disenfranchising of between 3-5% of voters annually in a general election. These voters will not only not have their votes counted, but they will be unaware that they have not had a voice in the election despite having cast a vote. The current process of casting votes by absentee ballot is antiquated and both labor and paper intensive. Voter error due to missing signatures, missing inner envelopes and multiple ballots in a single envelope result in numerous voided or uncounted ballots statewide. These numbers are compounded by delayed USPS delivery that results in ballots being received after the Election Day deadline. Town clerks across the state have seen a rise in delayed delivery ballots since the consolidation of USPS processing centers outside of Connecticut. For these reasons, expanding the current absentee voting process to include no excuse absentee voting that relies on delivery through the USPS is not supported by CTCA membership.

CTCA is committed to ensuring the integrity and efficiency of our elections. Our membership will continue to provide thoughtful and insightful feedback to this Committee and the Secretary of the State. CTCA's position is to **support *In Person Early Voting by Tabulator*** allowing a voter to cast a ballot in a single central location determined by the towns for a period of several days prior to Election Day. ***In Person Early Voting by Tabulator*** will ensure that more voters have access to the election process in an environment that assures each vote is counted.

CTCA opposes HB5278.