



## **Attorney General Jennings' comments on Superior Court's voting ruling (as prepared)**

*February 27, 2024*

Thank you all for being here.

Last Friday afternoon, a Superior Court judge issued a surprise ruling that struck down Delaware's early voting and permanent absentee voting laws—laws that have become settled and relied upon by tens of thousands of Delawareans each election. The lawsuit that led to that ruling was filed by partisan plaintiffs. That lawsuit was wrong on its merits and politically extreme on its face; and we believe that the ruling is having the net effect of sowing confusion ahead of a major election, threatening grave consequences for the people of this State.

This ruling means Delawareans' access to the ballot is now among the worst in America. 25 states have stronger permanent absentee protections than us. 46 states allow early voting. Let me put a fine point on that — we are at the bottom of the barrel along with all but three other states. That is shameful.

Let's be clear about what this means for November:

1. Severely disabled Delawareans, who've relied on their absentee ballot arriving for every election, are now being deleted from that list.
2. Our military families – Delawareans who volunteer and are sent all over the globe in service of our nation – are now being deleted from the permanent absentee list.

This extreme Republican minority lawsuit has now successfully disenfranchised our state's most vulnerable and most noble voters — veterans, the disabled, caregivers, and working people. 21,000 of them in the case of permanent absentee, and 56,000 in the case of early voting. It's outrageous, it's callous, and I will not let it stand uncontested.

Voting rights are our most fundamental and sacred right; our country's history boils down to the establishment and expansion of that right by the people, for the people. The nucleus of the American project was the idea that government ought to be chosen by the governed. Our nation's most celebrated milestones in the interceding centuries have been expansions of that right. But in recent years we have seen a concerted effort by right-wing extremists to take us backwards.

No idea that requires silence to survive has any place in a democracy. But that is precisely the fight we're having: in statehouses and courthouses alike, extremists are trying to empower losing ideas by

eroding the right to vote itself. Delaware is not the only state, nor are these laws the first frontier, in that fight. On same-day registration, vote by mail, no-excuse absentee voting, and now early voting and permanent absentee status, the playbook has been the same. And now that extremists in Delaware have gotten what they wanted, they're scrambling to walk it back in the press.

The opposition to these policies may have been partisan, but until 4 years ago, the issue itself was not. Look no further than Sen. Hocker himself, who once voted to pass the permanent absentee law that he has now torn up in the courts. For thousands of working people, people with disabilities, the elderly, and people without access to reliable transportation, laws that make voting accessible are effectively the right to vote itself.

To that end, we are here today to make three statements.

First, we respectfully but fundamentally disagree with this ruling. After our own legal analysis and speaking with Commissioner Albence, I have directed the Department of Justice to take all necessary steps to appeal the Superior Court's ruling. We will file our appeal quickly and intend to request a decision from the Delaware Supreme Court so that voters have final clarity in time for the September primaries.

Second, it is critical for the state to have one policy on elections. There is an unambiguous solution to this problem, which is for the General Assembly to address voting rights through a constitutional amendment in the next three months, and to confirm it next year. I urge Democrats and Republicans alike to start by voting for Senate Bill 3, sponsored by Sen. Darius Brown.

Third, to voters: here's what you need to know. This ruling does not affect the upcoming presidential primary on April 2. Ballots will go out to permanent absentee voters soon and early voting locations will be open.

Regardless of your party, where you live, or how you vote, you deserve every chance to exercise that right. Whether you voted for me or not, this is your right and I will never stop fighting for it.

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