

ASSEMBLY, No. 4814

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Assemblymen Zwicker, Caputo, Assemblywomen Carter, Vainieri Huttle,
Jasey, Lampitt, Downey, Assemblymen Johnson and Freiman**

SYNOPSIS

Allows mail-in voter to cure mail-in ballot due to missing certificate.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2021)

1 AN ACT concerning the curing of a mail-in ballot due to a missing
2 certificate and amending P.L.2009, c.79.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 17 of P.L.2009, c.79 (C.19:63-17) is amended to
8 read as follows:

9 17. a. The county board of elections shall, promptly after
10 receiving each mail-in ballot, remove the inner envelope containing
11 the ballot from the outer envelope and shall compare the signature
12 and the information contained on the flap of the inner envelope with
13 the signature and information contained in the respective requests
14 for mail-in ballots and the signature and information contained in
15 the Statewide voter registration system. In addition, as to mail-in
16 ballots issued less than seven days prior to an election, the county
17 board of elections shall also check to establish that the mail-in voter
18 did not vote in person. The county board shall reject such a ballot if
19 it is not satisfied, pursuant to a comparison with the Statewide voter
20 registration system, that the voter is legally entitled to vote and that
21 the ballot conforms with the requirements of this act. The county
22 board of elections shall conduct the determination of qualification
23 of each voter in accordance with the requirements of the Certificate
24 of Mail-in Voter pursuant to section 13 of P.L.2009, c.79 (C.19:63-
25 13). When the voter failed to include the Certificate of Mail-in
26 Voter, the county board of elections shall permit the voter to cure
27 the mail-in ballot as provided under subsection b. of this section.

28 In the case of a mail-in ballot to be voted at a primary election
29 for the general election, the ballot shall be rejected if the mail-in
30 voter has indicated in the certificate the voter's intention to vote in a
31 primary election of any political party in which the voter is not
32 entitled to vote according to the Statewide voter registration system,
33 and if it shall appear from the record that the voter is not entitled to
34 vote in a primary election of the political party which has been so
35 indicated.

36 Any mail-in ballot which is received by a county board of
37 elections shall be rejected if the inner envelope is unsealed or if
38 either the inner or outer envelope has a seal that has been tampered
39 with. Mail-in ballots shall not be rejected due to any defect arising
40 out of or relating to the preparation or mailing of the ballot or
41 envelope that was not reasonably caused by the voters, such as a
42 torn envelope and missing or insufficient glue to allow the ballot to
43 be sealed.

44 Disputes about the qualifications of a mail-in voter to vote or
45 about whether or not or how any mail-in ballot shall be counted in

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 such election shall be referred to the Superior Court for
2 determination, as provided under section 4 of P.L.2020, c.70
3 (C.19:63-17.1).

4 After such investigation, the county board of elections shall
5 detach or separate the certificate from the inner envelope containing
6 the mail-in ballot, unless it has been rejected by it or by the
7 Superior Court, marking the envelope so as to identify the election
8 district in which the ballot contained therein is to be voted as
9 indicated by the voter's home address appearing on the certificate
10 attached to or accompanying the inner envelope and, in the case of
11 ballots to be voted at a primary election for a general election, so as
12 to identify the political party in the primary election of which it is
13 to be voted.

14 The location at which a county board of elections determines
15 whether a mail-in ballot shall be accepted or rejected shall be
16 considered an election district for the purposes of appointment of
17 challengers.

18 b. The county board of elections shall, promptly after receiving
19 each mail-in ballot, undertake the following procedures and
20 requirements concerning the acceptance or rejection of each mail-in
21 ballot:

22 (1) within 24 hours after the decision has been made to reject a
23 voter's mail-in or provisional ballot on the basis of a missing
24 signature or discrepant signature, issue a "Cure Letter" by mail or
25 email to the voter whose ballot was rejected, which shall inform the
26 voter of that fact and provide the reasoning for rejection, and
27 attempt to contact the voter by telephone, if a telephone number is
28 available. The cure letter shall include a "Cure Form" and the form
29 shall include the voter's name and instruct the voter on how to cure
30 the alleged or actual deficiency. Cure forms shall not be referred to
31 as affidavits or certifications and shall not be required to be sworn;

32 (2) when the alleged or actual deficiency involves the signature
33 of the voter, instruct the voter that they may cure the deficiency by
34 completing the cure form and returning it to the county board of
35 elections in person, by fax, or by email, not later than 48 hours
36 prior to the final certification of the results of the election, or by
37 returning it to the county board of elections by mail, and that the
38 completed cure form must be received by the county board of
39 elections not later than 48 hours prior to the final certification of the
40 results of the election;

41 (3) include, with the cure letter, when sent by mail, a pre-printed
42 cure form and a postage-paid return envelope addressed to the
43 county board of elections which the voter may use to return the cure
44 form; **[and]**

45 (4) inform voters that they shall not be required to submit any
46 form of hard-copy identification document or copy thereof in order
47 to cure a signature deficiency, but may do so by declaring that they
48 submitted their provisional ballot or mail-in ballot, and verifying

1 their identity by either: (a) providing a valid New Jersey driver's
2 license number or Motor Vehicle Commission non-driver
3 identification number; or (b) if the voter does not have a valid New
4 Jersey driver's license number or Motor Vehicle Commission non-
5 driver identification number, then by providing the last four digits
6 of their Social Security Number; or (c) if the voter does not have
7 the identification in (a) or (b), then attaching a legible copy of a
8 New Jersey State-accepted form of identification, including either a
9 sample ballot which lists the voter's name and address, an official
10 federal, State, county, or municipal document which lists the voter's
11 name and address, or a utility bill, telephone bill, or tax or rent
12 receipt which lists the voter's name and address; and (d) signing and
13 dating the cure form prior to returning it; and

14 (5) when the voter failed to include the Certificate of Mail-in
15 Voter required pursuant to section 13 of P.L.2009, c.79 (C.19:63-
16 13), provide the voter, along with the Cure Letter and Cure Form,
17 with a substantially similar certificate for the voter to complete in
18 order to cure the voter's mail-in ballot in accordance with the same
19 requirements, procedures, and timeframes specified in this
20 subsection.

21 c. If a voter returns a completed cure form in a timely manner
22 and the information provided verifies the voter's identity, pursuant
23 to this section, their otherwise valid mail-in or provisional ballot
24 shall be counted in the final election results irrespective of any
25 signature deficiency previously identified and, under those
26 circumstances, the cure form may not be verified or authenticated
27 using signature matching.

28 d. In accordance with this section, variations in voter
29 signatures caused by the substitution of initials for the first name,
30 middle name, or both, shall not be grounds for the county board of
31 elections to determine that the signatures are non-conforming or do
32 not match.

33 e. In cases of rejected ballots, the county board of elections
34 shall retain the voter's outer envelope, inner envelope, self-
35 certification certificate, and mail-in ballot in a bundle unique to
36 each voter for a period of two years in accordance with section 24
37 of P.L.2009, c.79 (C.19:63-24).

38 f. County boards of elections shall be required to meet at least
39 once each week during the three-week period preceding each
40 election to conduct the ballot processing and curing provisions
41 specified in this section, and shall meet more frequently as may be
42 required by the Secretary of State to ensure the timely processing of
43 ballots.

44 The Secretary of State shall prepare educational materials
45 regarding this section that all employed county boards of elections
46 employees handling ballots shall read and have available for
47 review. The materials shall provide clear information regarding the
48 standards for acceptance and rejection of mail-in ballots and the

1 safe-keeping of all materials in the case of rejection. The materials
2 shall serve an educational purpose for the county board of elections
3 and shall not replace, supersede, or void the authority of the county
4 board or a judge of the Superior Court to accept or reject a mail-in
5 ballot.

6 (cf: P.L.2020, c.71, s.12)

7
8 2. This act shall take effect immediately.

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11 STATEMENT

12
13 This bill allows a mail-in voter to cure their mail-in ballot due to
14 a missing mail-in voter certificate.

15 Under current law, each mail-in voter is required to complete the
16 Certificate of Mail-in Voter that is attached to the flap of the mail-
17 in ballot inner envelope. By completing the certificate, the mail-in
18 voter certifies, subject to the penalties for fraudulent voting: the
19 voter's address, that the voter is the person who applied for the
20 enclosed ballot, that the voter marked the ballot in secret, and that a
21 family member may provide assistance to the voter. The mail-in
22 voter is required to sign the certificate. Furthermore, the certificate
23 requires any person who provided assistance to the voter in marking
24 the ballot to complete a portion of the certificate on which that
25 person certifies that the person assisted the voter, and declares that
26 the person will maintain the secrecy of the voter's ballot. The
27 person who provided assistance is also required to provide the
28 person's signature, printed name, and address on the certificate.

29 Under this bill, when the voter failed to include the Certificate of
30 Mail-in Voter, the county board of elections would be required to
31 provide the voter, along with the Cure Letter and Cure Form, with a
32 substantially similar certificate for the voter to complete in order to
33 cure the voter's mail-in ballot in accordance with the same
34 requirements, procedures, and timeframes specified for ballot
35 curing due to a missing or discrepant signature.