

ASSEMBLY, No. 5824

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 2, 2021

Sponsored by:

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Expands mail-in ballot technical defects eligible for curing; makes various changes concerning mail-in ballot cure processing and documentation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/2021)

1 **AN ACT** concerning the ability of voters to cure defects in their
2 voted mail-in ballots and amending various parts of the statutory
3 law.

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

7
8 1. Section 4 of P.L.2004, c.88 (C.19:61-4) is amended to read
9 as follows:

10 4. a. The Secretary of State shall establish a free-access
11 system, such as a toll-free telephone number, an Internet website or
12 any combination thereof, that any individual who casts a
13 provisional ballot, mail-in ballot, or overseas ballot in all elections
14 where they are qualified to vote, may access to ascertain whether
15 the ballot of that individual was received, accepted for counting
16 and, if the vote was not counted, the reason for the rejection of the
17 ballot. The system shall at all times preserve the confidentiality of
18 each voter, and shall ensure that no person, other than the individual
19 who cast the ballot, may discover whether or not that individual's
20 ballot was received, accepted, or rejected, unless so informed by the
21 voter.

22 b. The free-access system shall be prominently displayed on
23 the New Jersey Division of Elections website under a "Track My
24 Ballot" user portal.

25 c. To applicable situations, the free-access system shall record
26 the date that the mail-in ballot was mailed; the date that the
27 overseas ballot was mailed or transmitted via electronic mail; the
28 date the ballot was received and the notation "Received"; the
29 notation that the ballot was "Accepted" or "Rejected;" and the code
30 for rejection.

31 d. Beginning on February 1, 2021, the free-access system shall
32 provide a publicly viewable macro-report of the total number of
33 rejected ballots by county and by code along with the totals for
34 votes cast by mail-in ballot, overseas ballots, and total ballots cast.
35 This report shall be kept and made available on the Secretary of
36 State's website for a period of 10 years.

37 (cf: P.L.2020, c.70, s.2)

38
39 2. Section 17 of P.L.2009, c.79 (C.19:63-17) is amended to
40 read as follows:

41 17. a. The county board of elections shall, **[promptly after]**
42 within 24 hours of receiving each mail-in ballot, enter a notation
43 "Received" into the Statewide voter registration system and the
44 free-access system established under section 4 of P.L.2004, c.88
45 (C.19:61-4) for each ballot received, and shall proceed to remove

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 the inner envelope containing the ballot from the outer envelope
2 and shall compare the signature and the information contained on
3 the flap of the inner envelope with the signature and information
4 contained in the respective requests for mail-in ballots and the
5 signature and information contained in the Statewide voter
6 registration system. The county board of elections shall conduct the
7 signature comparison in accordance with the provisions of
8 subsection c. of section 5 of P.L.2020, c.70 (C.19:63-17.2), with the
9 presumption that the signature on the flap of the inner envelope is
10 the voter's signature. In addition, as to mail-in ballots issued less
11 than seven days prior to an election, the county board of elections
12 shall also check to establish that the mail-in voter did not vote in
13 person. The county board shall reject such a ballot if it is not
14 satisfied, pursuant to a comparison with the Statewide voter
15 registration system, that the voter is legally entitled to vote and that
16 the ballot conforms with the requirements of this act. The county
17 board of elections shall conduct the determination of qualification
18 of each voter in accordance with the requirements of the Certificate
19 of Mail-in Voter pursuant to section 13 of P.L.2009, c.79 (C.19:63-
20 13).

21 In the case of a mail-in ballot to be voted at a primary election
22 for the general election, the ballot shall be rejected if the mail-in
23 voter has indicated in the certificate the voter's intention to vote in a
24 primary election of any political party in which the voter is not
25 entitled to vote according to the Statewide voter registration system,
26 and if it shall appear from the record that the voter is not entitled to
27 vote in a primary election of the political party which has been so
28 indicated.

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

37 Disputes about the qualifications of a mail-in voter to vote or
38 about whether or not or how any mail-in ballot shall be counted in
39 such election shall be referred to the Superior Court for
40 determination, as provided under section 4 of P.L.2020, c.70
41 (C.19:63-17.1).

42 After such investigation, the county board of elections shall
43 detach or separate the certificate from the inner envelope containing
44 the mail-in ballot, unless it has been rejected by it or by the
45 Superior Court, marking the envelope so as to identify the election
46 district in which the ballot contained therein is to be voted as
47 indicated by the voter's home address appearing on the certificate
48 attached to or accompanying the inner envelope and, in the case of

1 ballots to be voted at a primary election for a general election, so as
2 to identify the political party in the primary election of which it is
3 to be voted.

4 The location at which a county board of elections determines
5 whether a mail-in ballot shall be accepted or rejected shall be
6 considered an election district for the purposes of appointment of
7 challengers.

8 b. Any mail-in ballot received by a county board of elections
9 that contains technical defects that would cause the ballot to be
10 rejected, including a missing or discrepant signature, missing
11 Certificate of Mail-in Voter, missing inner envelope, missing mail-
12 in ballot, incomplete or incorrect information of the person who
13 provided assistance to the voter, or incorrect outer envelope, shall
14 be temporarily rejected and subject to curing in accordance with
15 this subsection. The county board of elections shall, promptly after
16 receiving each mail-in ballot, undertake the following procedures
17 and requirements concerning the acceptance or rejection of each
18 mail-in ballot:

19 (1) within 24 hours after the decision has been made to reject a
20 voter's mail-in or provisional ballot on the basis of a missing
21 signature or discrepant signature, missing Certificate of Mail-in
22 Voter, missing inner envelope, missing mail-in ballot, incomplete or
23 incorrect information of the person who provided assistance to the
24 voter, or incorrect outer envelope, 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. All cure forms shall inform voters
31 that they have the right to receive assistance in completing the cure
32 form and any materials necessary to cure their ballot defect,
33 provided that the person assisting the voter completes the following
34 assistor portion that shall be included in all cure forms: "I do hereby
35 certify that I am the person who provided assistance to this voter.
36 (signature, printed name, and address of person providing
37 assistance)." Cure forms shall also include the following language:
38 "IT IS IMPORTANT THAT YOU COMPLETE AND RETURN
39 THIS CURE FORM AND ANY NECESSARY MATERIALS
40 REQUESTED. If there is a discrepancy with your ballot signature
41 and the signature on file, your updated signature on this cure form
42 will be added to your voter registration record and will be used for
43 signature verification in future elections. Please fully complete the
44 form and any necessary materials and return promptly." Cure forms
45 shall not be referred to as affidavits or certifications and shall not be
46 required to be sworn;

47 (2) when the alleged or actual deficiency involves the signature
48 of the voter, instruct the voter that they may cure the deficiency by

1 completing the cure form and returning it to the county board of
2 elections in person, by fax, or by email, not later than 48 hours prior
3 to the final certification of the results of the election, or by
4 returning it to the county board of elections by mail, and that the
5 completed cure form must be received by the county board of
6 elections not later than 48 hours prior to the final certification of the
7 results of the election;

8 (3) include, with the cure letter, when sent by mail, a pre-printed
9 cure form and a postage-paid return envelope addressed to the
10 county board of elections which the voter may use to return the cure
11 form **【; and】** . On the outside and front of all return envelopes sent
12 to voters for the return of the necessary forms and materials to cure
13 their ballot in accordance with this section, there shall be printed
14 “Official Election Material” “Return Service Requested.” All return
15 envelopes shall also include a bearer authorization portion that shall
16 be substantively the same as that required for mail-in ballot outer
17 envelopes pursuant to section 12 of P.L.2009, c.79 (C.19:63-12);

18 (4) inform voters that they shall not be required to submit any
19 form of hard-copy identification document or copy thereof in order
20 to cure a signature deficiency, but may do so by declaring that they
21 submitted their provisional ballot or mail-in ballot, and verifying
22 their identity by either: (a) providing a valid New Jersey driver's
23 license number or Motor Vehicle Commission non-driver
24 identification number; or (b) if the voter does not have a valid New
25 Jersey driver's license number or Motor Vehicle Commission non-
26 driver identification number, then by providing the last four digits
27 of their Social Security Number; or (c) if the voter does not have
28 the identification in (a) or (b), then attaching a legible copy of a
29 New Jersey State-accepted form of identification, including either a
30 sample ballot which lists the voter's name and address, an official
31 federal, State, county, or municipal document which lists the voter's
32 name and address, or a utility bill, telephone bill, or tax or rent
33 receipt which lists the voter's name and address; and (d) signing and
34 dating the cure form prior to returning it;

35 (5) in cases of a missing Certificate of Mail-in Voter, missing
36 inner envelope, missing mail-in ballot, incomplete or incorrect
37 information of the person who provided assistance to the voter, or
38 incorrect outer envelope, the county board of elections shall follow
39 the same requirements, procedures, and timeframes established
40 under this section, and shall issue to the voter along with the cure
41 letter and cure form a replacement Certificate of Mail-in Voter,
42 inner envelope, mail-in ballot, form for the person who provided
43 assistance to the voter, or incorrect outer envelope, as the case may
44 be, as may be necessary for the voter to cure the ballot defect;

45 (6) in all cases, issue the cure letter, cure form, and any other
46 necessary materials only to the voter, provided that the voter shall
47 be entitled to receive assistance in completing the ballot curing
48 materials, use the messenger designated by the voter in the voter's

1 application to vote by mail to receive the ballot curing materials,
2 and use a bearer to return the completed ballot curing materials, in
3 accordance with the limits established by P.L.2009, c.79 (C.19:63-1
4 et seq.), and the county board of elections shall inform the voter of
5 their right to receive assistance, use a messenger, and use a bearer;
6 and

7 (7) in all cases, issue the cure letter, cure form, and any other
8 necessary ballot curing materials in the same languages as may be
9 required for ballots under any State or federal law, as applicable to
10 the county.

11 c. If a voter returns a completed cure form and any other
12 materials required for curing the defect, as the case may be, in a
13 timely manner and the information provided verifies the voter's
14 identity, pursuant to this section, their otherwise valid mail-in or
15 provisional ballot shall be counted in the final election results
16 irrespective of any signature deficiency previously identified and,
17 under those circumstances, the cure form may not be verified or
18 authenticated using signature matching.

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

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

29 f. County boards of elections shall be required to meet at least
30 once each week **【during the three-week period】** starting 45 days
31 preceding each election to conduct the ballot processing and curing
32 provisions specified in this section, and shall meet more frequently
33 as may be required by the Secretary of State to ensure the timely
34 processing of ballots. County boards of elections shall enter on a
35 weekly basis into the Statewide voter registration system and the
36 free-access system established under section 4 of P.L.2004, c.88
37 (C.19:61-4) the status of each ballot.

38 The Secretary of State shall prepare educational materials
39 regarding this section that all employed county boards of elections
40 employees handling ballots shall read and have available for
41 review. The materials shall provide clear information regarding the
42 standards for acceptance and rejection of mail-in ballots and the
43 safe-keeping of all materials in the case of rejection. The materials
44 shall serve an educational purpose for the county board of elections
45 and shall not replace, supersede, or void the authority of the county
46 board or a judge of the Superior Court to accept or reject a mail-in
47 ballot.

1 g. Each county board of elections shall maintain on its website
2 a list of the name and street address of each voter who is entitled to
3 cure their ballot pursuant to the provisions of this section, subject to
4 laws protecting a voter's privacy. The list shall be available starting
5 30 days before each election, shall be updated every 24 hours, and
6 shall remain available until 24 hours after the certification of the
7 election results.

8 h. Each county board of elections shall process the mail-in
9 ballots in its possession in a timely manner and shall notify voters
10 who are qualified to cure their ballot pursuant to the provisions of
11 this section no later than eight days prior to the certification of the
12 results election.

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

14
15 3. Section 5 of P.L.2020, c.70 (C.19:63-17.2) is amended to
16 read as follows:

17 5. a. The Secretary of State shall prepare educational materials
18 regarding the provisions of section 17 of P.L.2009, c.79 (C.19:63-
19 17) that all county boards of elections persons handling ballots shall
20 be required to read or view prior to the election. The materials shall
21 provide clear information regarding the standards for acceptance
22 and rejection of mail-in ballots and the safe holding of all materials
23 in the case of rejection.

24 b. Prior to each election, the Secretary of State shall direct all
25 county boards of elections and their members, agents, employees,
26 and representatives, who shall be collectively known as the
27 "evaluators," and who are responsible for authenticating or
28 verifying mail-in ballots pursuant to section 17 of P.L.2009, c.79
29 (C.19:63-17), or authenticating or verifying provisional ballots
30 pursuant to section 19 of P.L.1999, c.232 (C.19:53C-13), to comply
31 with the provisions of subsection c. of this section.

32 c. The evaluation of each mail-in ballot shall be liberally
33 construed in favor of the voter, and any deficiencies in the voter's
34 mail-in ballot shall not create a presumption that the vote is
35 improper or invalid, and shall not be considered evidence to that
36 effect. No voter shall be disenfranchised when technical defects of
37 the mail-in ballot caused by the voter can be reasonably cured or
38 when chain of custody issues are surmountable. The Secretary of
39 State and each county board of elections shall ensure that all
40 evaluators receive, and are directed to comply with, written
41 guidance stating as follows:

42 (1) when verifying signatures, evaluators shall keep in mind that
43 everyone writes differently, and no one signs their name exactly the
44 same way twice;

45 (2) some variation in signatures is to be expected;

46 (3) many factors can lead to signature variance, including, but
47 not limited to, age, disability, underlying health conditions, writing

1 implement or surface, level of concentration, and educational
2 background;

3 (4) according to studies, evaluators are more likely to declare
4 genuine signatures to be non-genuine than they are to accept a non-
5 genuine signature as genuine, and the goal is to prevent these errors
6 in signature verification; and

7 (5) evaluators shall presume that the documents were signed by
8 the same person and shall accept a signature as valid unless there is
9 a clear discrepancy that cannot be reasonably explained.

10 d. The Secretary of State shall, not later than **[14]** 50 days
11 prior to the election, publish the ballot curing process established
12 under subsection b. of section 17 of P.L.2009, c.79 (C.19:63-17)
13 and the signature matching guidelines required under subsection c.
14 of this section which each evaluator shall be required to follow in
15 determining if mail-in voter signatures match.

16 e. The Secretary of State shall, at least 30 days prior to the
17 election, conduct a voter education campaign to inform voters about
18 the **[signature matching and]** ballot curing provisions established
19 by this act, P.L.2020, c.70, which campaign shall also exhort voters
20 to update their contact information with their respective county
21 board of elections, including their email address and telephone
22 number, to enable the county board to contact the voter in case the
23 need arises for the voter to cure their ballot.

24 (cf: P.L.2020, c.70, s.5)

25

26 4. Section 23 of P.L.2009, c.79 (C.19:63-23) is amended to
27 read as follows:

28 23. On an ongoing basis as each action is completed, the county
29 clerk shall mark in the Statewide voter registration system, which
30 will be shared with the free-access system, to show that mail-in
31 ballots were delivered or forwarded to the respective registered
32 voters. For each mail-in ballot that has been voted, received and
33 counted, the board of elections shall also, by reference to the
34 certificates removed from the inner envelopes of such ballots, place
35 the word "Voted" in the space provided in the Statewide voter
36 registration system and duplicate voting record for recording the
37 ballot number of the voter's ballot in the election. For each mail-in
38 ballot that has been voted, received and rejected pursuant to section
39 17 of P.L.2009, c.79 (C.19:63-17), the board of elections shall mark
40 as "Rejected" in the Statewide voter registration system, which will
41 be shared with the free-access system. For each of the rejected
42 mail-in ballots where the voter provided a cure and therefore were
43 accepted, the board of elections shall provide an additional input as
44 "Accepted" in the Statewide voter registration system, which will be
45 shared with the free access system. For each mail-in ballot received,
46 pending their acceptance or rejection, the board of elections shall
47 provide an additional input as "Received" in the Statewide voter
48 registration system, which shall be shared with the free access

1 system. In the case of the primary election for the general election,
2 the board shall also cause to be noted in the proper space of the
3 Statewide voter registration system or other record of voting form
4 the first three letters of the name of the political party primary in
5 which such ballot was voted. The record contained in the Statewide
6 voter registration system and of voting forms in the original
7 permanent registration binders shall be conformed to the foregoing
8 entries in the duplicate forms.

9 (cf: P.L.2020, c.70, s.6)

10
11 5. This act shall take effect on January 1 next following the
12 date of enactment.

13 14 15 STATEMENT

16
17 This bill expands the kind of mail-in ballot technical defects that
18 are permitted to be corrected or cured by the voter to prevent the
19 voter's ballot from being disqualified. This bill also makes various
20 changes concerning the processing of mail-in ballots, curing
21 documents, and the required documentation.

22 Under current law, a voter may cure a mail-in ballot when the
23 voter's signature is missing or when the signature does not match
24 the one on record. This bill expands the kind of technical defects
25 eligible to be cured to include a missing Certificate of Mail-in
26 Voter, missing inner envelope, missing mail-in ballot, incomplete or
27 incorrect information of the person who provided assistance to the
28 voter, or incorrect outer envelope. Under the bill, the county board
29 of elections would issue to the voter, along with the cure letter and
30 cure form, a replacement for the missing documents as may be
31 necessary for the voter to cure the ballot defect.

32 The bill allows the voter to receive assistance in completing the
33 ballot curing materials, use the messenger designated by the voter
34 in the voter's application to vote by mail to receive the ballot curing
35 materials, and use a bearer to return the completed ballot curing
36 materials, in accordance with the limits established for mail-in
37 ballots under current law.

38 The bill requires the cure letter, cure form, and any other
39 necessary ballot curing materials to be provided in the same
40 languages as may be required for ballots under any State or federal
41 law, as applicable to the county. In addition, the bill provides that
42 all cure forms must inform voters that they have the right to receive
43 assistance in completing the cure form and any materials necessary
44 to cure their ballot defect, provided that the person assisting the
45 voter completes an assistor certification portion that will be
46 included in all cure forms, along with language urging the voter to
47 complete the materials fully and return promptly. The bill also
48 requires the outside and front of all return envelopes sent to voters

1 for the return of the necessary forms and materials to cure their
2 ballot to have printed “Official Election Material” “Return Service
3 Requested.” The return envelopes would also be required to include
4 a bearer authorization portion substantively the same as that
5 required for mail-in ballot outer envelopes.

6 The bill also makes changes to certain ballot processing and
7 curing timeframes and deadlines. The bill requires county boards of
8 elections, within 24 hours of receiving each mail-in ballot, to enter
9 the notation “Received” into the Statewide voter registration system
10 and the free-access system. County boards of elections would also
11 be required to begin mail-in ballot processing 45 days before each
12 election, and to enter on a weekly basis into the Statewide voter
13 registration system and the free-access system the status of each
14 ballot. County boards of elections would also be required to
15 maintain on their respective websites a list of the name and street
16 address of each voter who is entitled to cure their ballot, subject to
17 laws protecting a voter’s privacy. The list would be required to be
18 available starting 30 days before each election, be updated every 24
19 hours, and remain available until 24 hours after the certification of
20 the election results. County boards of elections would also be
21 required to process the mail-in ballots in their possession in a timely
22 manner and notify voters who are qualified to cure their ballot no
23 later than eight days prior to the certification of the results election.

24 The bill also requires the Secretary of State to publish the ballot
25 curing process and signature matching guidelines not later than 50
26 days prior to the election, instead of 14 days prior.