

SENATE, No. 2598

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senators Pou, Singleton and Turner

SYNOPSIS

Establishes “The Ballot Cure Act” to modify and establish various voting procedures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/20/2020)

1 AN ACT concerning a voter's opportunity to cure their voted mail-in
2 ballot and amending various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to read
8 as follows:

9 1. a. A county board of elections shall have posted a voter
10 information notice, which shall be referred to as a voter's bill of
11 rights, in a conspicuous location in each polling place before the
12 opening of the polls on the day of any election.

13 The notice shall contain:

14 the date of the election and the hours during which polling places
15 will be open;

16 a statement that sample ballots are available at the polling place
17 for review by the voter;

18 instruction for the use of the voting machine in that polling place
19 and an explanation of what instructions for voting are available at the
20 polling place for the voter;

21 instruction for a voter who is voting for the first time;

22 instruction for a voter who is required to provide identification
23 pursuant to the federal "Help America Vote Act of 2002" and
24 R.S.19:15-17 prior to casting a vote;

25 instruction on how to cast a vote if the voter cannot be present at
26 a polling place on the day of the election;

27 an explanation of the right of the voter to vote in privacy,
28 regardless of the voter's physical abilities;

29 an explanation of the right of the voter to a provisional ballot,
30 including in the event that a mail-in ballot has been applied for and
31 not received or not transmitted to the county board of elections before
32 the day of any election, and the other circumstances under which a
33 voter has a right to a provisional ballot;

34 an explanation of the right of the voter to receive a replacement
35 ballot for a ballot that has been spoiled, destroyed, lost or never
36 received;

37 an explanation of the right of the voter to ask for and receive
38 assistance in voting;

39 an explanation of the right of the voter to take a reasonable amount
40 of time in casting a vote on a voting machine;

41 an explanation of the right of the voter to bring written material
42 into the polling place for the voter's personal use in casting a vote;

43 instruction on how to contact the appropriate officials if a voter's
44 right to vote or right to otherwise participate in the electoral process
45 has been challenged or violated;

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 general information on federal and State laws that prohibit acts of
2 fraud or misrepresentation and the penalties for those acts; **[and]**

3 an explanation of the right of the voter to confidentially discover
4 the status of their ballot using the “Track My Ballot” user portal;

5 an explanation that “All ballots are counted and your vote remains
6 anonymous;”

7 an explanation of the right of the voter that if their ballot was
8 rejected, they will be notified within 72 hours of the receipt of the
9 ballot or, if the voter voted using a provisional ballot, within 48 hours
10 of the closing of the polls by email, mail, or phone with the reason
11 for rejection. The voter will have up to 5 days after the close of the
12 polls on Election Day to provide a cure for their ballot;

13 an explanation giving the options for the voter to provide the cure
14 to their rejected ballot;

15 an explanation that no voters shall be intimidated or otherwise
16 unduly influenced by political insignia while voting. No person shall
17 wear, display, sell, give or provide any political or campaign slogan,
18 badge, button or other insignia associated with any political party or
19 candidate to be worn at or within one hundred feet of the polls or
20 within the polling place or room, on any primary, general or special
21 election day or on any commission government election day, except
22 the badge furnished by the county board as provided by law. This
23 includes any political gear representing the campaign slogans, logos,
24 or depictions or representations of any political party or candidate
25 such as merchandise sold directly from a political party, campaign,
26 candidate, or by third parties and vendors representing any political
27 party or campaign or candidate. A person violating any of these
28 provisions is guilty of a disorderly persons offense and will not be
29 permitted on the premises and can only return to vote after the
30 removal of prohibited political insignia; and

31 such other statement, instruction or explanation the Secretary of
32 State may deem appropriate to ensure the full and knowledgeable
33 participation of the voter in the process.

34 The requirement to post this notice in each polling place shall not
35 replace, supersede or void any other requirement set forth in law for
36 the posting of information in each polling place apart from the voter
37 information notice.

38 b. The Secretary of State shall prescribe the form and specific
39 content of the voter information notice, which may be comprised of
40 more than one page. If the notice is comprised of more than one
41 page, each page shall be posted separately. For an election district in
42 which the primary language of 10 percent or more of the registered
43 voters is a language other than English, the Secretary of State shall
44 prescribe an official version of the voter information notice in that
45 other language or languages for use in that election district. The
46 notice shall be posted in English and in the other language or
47 languages in the polling places in each such district. The alternate

1 language shall be determined based on information from the latest
2 federal decennial census.

3 c. A county board of elections may modify or supplement the
4 voter information notice used in a county or municipality to provide
5 additional information specific to that county or a municipality in that
6 county, provided, however, that any such modification or
7 supplementation shall be submitted to the Secretary of State for prior
8 approval.

9 d. The voter information notice shall be printed on each sample
10 ballot, to the extent practicable, or if not practicable, information on
11 how to view or obtain a copy of the voter information notice shall be
12 printed on each sample ballot.

13 e. The voter information notice, including one modified or
14 supplemented pursuant to subsection c. of this section, shall be made
15 accessible on the official Internet site of the State by the Secretary of
16 State and each county board of elections shall ensure that the official
17 Internet site of the county contains a link to that notice.

18 f. **【The provisions of this section shall not give rise to a legal**
19 **cause of action.】** Deleted by amendment, P.L. , c. (pending before
20 the Legislature as this bill)

21 g. The State shall be liable for the costs incurred by local
22 government entities for compliance with this section, and they shall
23 be reimbursed for those costs, upon application, by the State
24 Treasurer.

25 (cf: P.L.2009, c.79, s.30)

26

27 2. Section 4 of P.L.2004, c.88 (C.19:61-4) is amended to read as
28 follows:

29 4. a. The **【Attorney General】** Secretary of State shall establish
30 a free-access system, such as a toll-free telephone number, an
31 Internet website or any combination thereof, that any individual who
32 casts a provisional ballot, mail-in ballot, or overseas ballot in all
33 elections where they are qualified to vote, may access to ascertain
34 whether the ballot of that individual was accepted for counting and,
35 if the vote was not counted, the reason for the rejection of the ballot.
36 The system shall at all times preserve the confidentiality of each
37 voter, and shall ensure that no person, other than the individual who
38 cast the ballot, may discover whether or not that individual's ballot
39 was accepted or rejected, unless so informed by the voter.

40 b. The free-access system shall be prominently displayed on the
41 New Jersey Division of Elections website under a “Track My Ballot”
42 user portal.

43 c. To applicable situations, the free-access system shall record
44 the date that the mail-in ballot was mailed; the date that the overseas
45 ballot was mailed or transmitted via electronic mail; the date the
46 ballot was received; the notation that the ballot was “Accepted” or
47 “Rejected;” the code for rejection; the date and method that the board

1 of elections notified the voter (mail, email, or phone) and, in cases
2 where the ballot was initially “Rejected” and the voter provided a
3 cure as provided under section 17 of P.L.2009, c.79 (C.19:63-17), the
4 date when the ballot was “Accepted.” If no cure was provided
5 successfully or at all, no other input shall be required.

6 d. The free-access system shall provide a legend containing all
7 the codes used for rejection and their explanation for rejection. The
8 system shall provide voters with the methods to cure the ballot, and
9 the deadline of 5 days after the closing of the polls on Election Day
10 to provide the cure.

11 e. The free-access system shall provide a publicly viewable
12 macro-report of the total number of rejected ballots by county and by
13 code along with the totals for votes cast by mail-in ballot, overseas
14 ballots, and total ballots cast. This report shall be kept and made
15 available on the Secretary of State’s website for a period of 10 years.
16 (cf: P.L.2004, c.88, s.4)

17
18 3. Section 17 of P.L.2009, c.79, s.17 (C.19:63-17) is amended
19 to read as follows:

20 17. a. The county board of elections shall, promptly after
21 receiving each mail-in ballot, remove the inner envelope containing
22 the ballot from the outer envelope and shall compare the signature
23 and the information contained on the flap of the inner envelope with
24 the digitized signature image and information contained in the
25 【respective requests for mail-in ballots】 Statewide voter registration
26 system. In addition, as to mail-in ballots issued less than seven days
27 prior to an election, the county board of elections shall also check to
28 establish that the mail-in voter did not vote in person. The county
29 board shall reject such a ballot if it is not satisfied, pursuant to a
30 comparison with the Statewide voter registration system, that the
31 voter is legally entitled to vote and that the ballot conforms with the
32 requirements of this act. The county board of elections shall conduct
33 the determination of qualification of each voter in accordance with
34 the requirements of the Certificate of Mail-in Voter pursuant to
35 section 13 of P.L.2009, c.79 (C.19:63-13).

36 In the case of a mail-in ballot to be voted at a primary election for
37 the general election, the ballot shall be rejected if the mail-in voter
38 has indicated in the certificate the voter's intention to vote in a
39 primary election of any political party in which the voter is not
40 entitled to vote according to the Statewide voter registration system,
41 and if it shall appear from the record that the voter is not entitled to
42 vote in a primary election of the political party which has been so
43 indicated.

44 Any mail-in ballot which is received by a county board of
45 elections shall be rejected if both the inner and outer envelopes are
46 unsealed or if either envelope has a seal that has been tampered with.
47 Mail-in ballots shall not be rejected due to any defect arising out of

1 or relating to the preparation or mailing of the ballot or envelope that
2 was not reasonably caused by the voters, such as a torn envelope and
3 missing or insufficient glue to allow the ballot to be sealed.

4 Disputes about the qualifications of a mail-in voter to vote or
5 about whether or not or how any mail-in ballot shall be counted in
6 such election shall be referred to the Superior Court for
7 determination.

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

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

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

25 (1) record in the Statewide voter registration system and the free-
26 access system the acceptance or rejection of the voter's ballot. Where
27 the voter's ballot is rejected, a code shall be input and displayed
28 showing the reason;

29 (2) in rejecting a voter's ballot, shall notify the voter within 72
30 hours of the receipt of the ballot or, if the voter voted by provisional
31 ballot, within 48 hours of the closing of the polls, by email, mail, or
32 phone with the reason for rejection. The voter shall have up to 5 days
33 after the close of the polls on Election Day to provide a cure for their
34 ballot. The county board of elections shall provide an explanation
35 giving the options for the voter to provide the cure to their rejected
36 ballot. To the extent the county board of elections cannot provide
37 such explanation and give the voter sufficient and reasonable time to
38 provide a cure for their ballot within the deadlines for the counting
39 of ballots as established by law, the county board of elections shall
40 seek an order from a Judge of the Superior Court to reasonably extend
41 the deadlines consistent with this State's liberal interpretation of
42 election law statutes so as to prevent voter disenfranchisement;

43 (3) in cases of rejected ballots, retain the voter's outer envelope,
44 inner envelope, self-certification certificate, and mail-in ballot in a
45 bundle unique to each voter for a period of two years in accordance
46 with section 24 of P.L.2009, c.79 (C.19:63-24); and

(4) where the rejection is due to signature mismatch, missing signature, or otherwise related to the questionable or inability to verify the voter's ballot by way of signature, the county board of elections shall allow and accept other methods from the voter to confirm their vote. These methods may include the voter providing a new signature, signing an affidavit attesting that they were the voter who sent in the mail-in ballot, and providing any form of identification that would satisfy the requirement of voter verification. Identification shall include a valid New Jersey driver's license number, a valid New Jersey non driver identification card number, or another form of identification issued or recognized as official by the federal government, the State, or any of its subdivisions, providing the identification carries the full address and signature of the person.

c. The Secretary of State shall prepare educational materials regarding the provisions of this section that all county boards of elections persons handling ballots shall be required to read or view prior to the election. The materials shall provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection.
(cf: P.L.2011, c.134, s.55)

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

23. **【As soon as practicable after each election】** On an ongoing basis as each action is completed, the county clerk and the board of elections shall mark in the Statewide voter registration system and all duplicate voting records to show that mail-in ballots were delivered or forwarded to the respective registered voters. Pursuant to section 9 of P.L.2009, c.79 (C.19:63-9), whenever the clerk mails or hand-delivers a mail-in ballot, the county clerk shall input the information as such in the free-access system, including the date of mailing or delivery. For each mail-in ballot that has been voted, received and counted, the board of elections shall also, by reference to the certificates removed from the inner envelopes of such ballots, place the word "Voted" in the space provided in the Statewide voter registration system and duplicate voting record for recording the ballot number of the voter's ballot in the election. For each mail-in ballot that has been voted, received and rejected pursuant to section 17 of P.L.2009, c.79 (C.19:63-17), the board of elections shall mark as "Rejected" in the Statewide voter registration system, the free-access system, and all duplicate voting records. For each of the rejected mail-in ballots where the voter provided a cure and therefore were accepted, the board of elections shall provide an additional input as "Accepted" in the same systems. In the case of the primary election for the general election, the board shall also cause to be noted in the proper space of the Statewide voter registration system or other record of voting form the first three letters of the name of the political

1 party primary in which such ballot was voted. The record contained
2 in the Statewide voter registration system and of voting forms in the
3 original permanent registration binders shall be conformed to the
4 foregoing entries in the duplicate forms.

5 (cf: P.L.2011, c.134, s.57)

6
7 5. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to read
8 as follows:

9 24. The county board of elections shall keep, for two years, all of
10 the requests and applications for mail-in ballots, all voted mail-in
11 ballots, and all of the certificates that have been detached or separated
12 by them from the inner envelopes. The county board of elections shall
13 also keep, for two years, all of the rejected mail-in ballots,
14 accompanying outer and inner envelopes, and the self-certification
15 certificates that have been detached or separated by them from the
16 inner envelopes. These contents shall be kept in bundles unique and
17 belonging to individual voters, and shall be made available for
18 inspection by the voter for challenges. All inner envelopes together
19 with their certificates, and the contents of those envelopes not opened
20 by order of the county board or Superior Court, shall also be retained
21 for the same period by the board. The superintendent of elections in
22 counties having a superintendent of elections and the prosecutor in
23 all other counties shall have the authority to impound all mail-in
24 ballots whenever the superintendent or prosecutor, as may be
25 appropriate, shall deem such action to be necessary.

26 (cf: P.L.2009, c.79, s.24)

27
28 6. This act shall take effect immediately.

30 31 STATEMENT

32
33 With the continued healthcare crisis of coronavirus and the as-yet
34 to be discovered vaccine or cure, millions of active registered voters
35 in New Jersey will be mailed a mail-in ballot for the rescheduled July
36 7, 2020 primary election, pursuant to the Governor's Executive Order
37 No. 144 (2020). Millions of voters will be voting by mail for the first
38 time and simple mistakes will happen, but that should not nullify
39 their votes. In the 2019 general election, over 2100 voters simply did
40 not sign their Certificate of Mail-in Voter, thereby resulting in their
41 votes not counting. Over 1500 voters were denied their votes due to
42 signature mismatch. Even when voters who have familiarity with
43 voting by mail, such as voters living in primarily vote by mail states
44 such as Washington and Colorado, mistakes still happen. But the
45 voters in those states have the ability to provide a cure for their
46 ballots. This bill mirrors legislation in those states giving voters the
47 ability to provide a cure for their ballot. The purpose of this bill is to

1 make voting more accessible, minimize the likelihood of
2 disenfranchisement, and protect a constitutional right from
3 abridgement for what may be a purely administrative oversight. This
4 bill also aims to update current law to make use of existing
5 technology for allowing voters to check on the status of their ballot.

6 Under the ballot curing provisions, the bill provides that mail-in
7 ballots would not be rejected due to any defect arising out of or
8 relating to the preparation or mailing of the ballot or envelope that
9 was not reasonably caused by the voters, such as a torn envelope and
10 missing or insufficient glue to allow the ballot to be sealed. The bill
11 also requires the county board of elections to, promptly after
12 receiving each mail-in ballot, undertake the following procedures and
13 requirements concerning the acceptance or rejection of each mail-in
14 ballot:

15 (1) record in the Statewide voter registration system and the free-
16 access system the acceptance or rejection of the voter's ballot. Where
17 the voter's ballot is rejected, a code would be input and displayed
18 showing the reason;

19 (2) in rejecting a voter's ballot, notify the voter within 72 hours
20 of the receipt of the ballot or, if the voter voted by provisional ballot,
21 within 48 hours of the closing of the polls, by email, mail, or phone
22 with the reason for rejection. The voter would have up to 5 days after
23 the close of the polls on Election Day to provide a cure for their
24 ballot. The county board of elections would provide an explanation
25 giving the options for the voter to provide the cure to their rejected
26 ballot. To the extent the county board of elections cannot provide
27 such explanation and give the voter sufficient and reasonable time to
28 provide a cure for their ballot within the deadlines for the counting
29 of ballots as established by law, the county board of elections would
30 seek an order from a Judge of the Superior Court to reasonably extend
31 the deadlines consistent with this State's liberal interpretation of
32 election law statutes so as to prevent voter disenfranchisement;

33 (3) in cases of rejected ballots, retain the voter's outer envelope,
34 inner envelope, self-certification certificate, and mail-in ballot in a
35 bundle unique to each voter for a period of two years; and

36 (4) where the rejection is due to signature mismatch, missing
37 signature, or otherwise related to the questionable or inability to
38 verify the voter's ballot by way of signature, the county board of
39 elections shall allow and accept other methods from the voter to
40 confirm their vote. These methods may include the voter providing
41 a new signature, signing an affidavit attesting that they were the voter
42 who sent in the mail-in ballot, and providing any form of
43 identification that would satisfy the requirement of voter verification.

44 The bill directs the Secretary of State to prepare educational
45 materials regarding the ballot curing provision that all county boards
46 of elections persons handling ballots would be required to read or
47 view prior to the election. The materials would provide clear

1 information regarding the standards for acceptance and rejection of
2 mail-in ballots and the safe holding of all materials in the case of
3 rejection.

4 In addition, the bill expands the function of the free-access system
5 that allows voters to check on the status of their ballot, to include
6 information not only about provisional ballots, but also for all other
7 mail-in ballots. Under the bill, a link to the free-access system would
8 be prominently displayed on the New Jersey Division of Elections
9 website under a “Track My Ballot” user portal. The free-access
10 system would record the date that the mail-in ballot was mailed; the
11 date that the overseas ballot was mailed or transmitted via electronic
12 mail; the date the ballot was received; the notation that the ballot was
13 “Accepted” or “Rejected;” the code for rejection; the date and
14 method that the board of elections notified the voter (mail, email, or
15 phone) and, in cases where the ballot was initially “Rejected” and the
16 voter provided a cure, the date when the ballot was “Accepted.” The
17 free-access system would also provide a legend containing all the
18 codes used for rejection and their explanation for rejection. The
19 system would provide voters with the methods to cure the ballot, and
20 the deadline of 5 days after the closing of the polls on Election Day
21 to provide the cure. Finally, the free-access system would provide a
22 publicly viewable macro-report of the total number of rejected ballots
23 by county and by code along with the totals for votes cast by mail-in
24 ballot, overseas ballots, and total ballots cast. This report would be
25 kept and made available on the Secretary of State’s website for a
26 period of 10 years.

27 The bill also expands the contents of the voter information notice,
28 also known as a voter’s bill of rights, to include mail-in voting and
29 ballot curing opportunities and procedures.