

SENATE, No. 3394

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 4, 2021

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

Co-Sponsored by:

Senators Brown, Oroho, Testa and Cardinale

SYNOPSIS

Requires do not forward label on mail-in ballot envelopes; allows mail-in voter to cure mail-in ballot due to missing or detached certificate; requires certain voter data be entered into voter file within 30 days.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/9/2021)

1 AN ACT concerning mail-in ballots and amending and supplementing
2 P.L.2009, c.79 (C.19:63-1 et seq.) and amending R.S.19:31-16.

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

6
7 1. (New section) a. When an official mail-in ballot is mailed to
8 an address at which the listed voter no longer resides, the person
9 residing at that address may return the ballot to the county clerk of
10 the county in which the ballot was issued. The person residing at that
11 address may return the unopened official mail-in ballot envelope in
12 person to the county clerk or deposit the envelope in a ballot drop
13 box or any outgoing United States Postal Service mailbox or letter
14 collection box with a return to sender notation affixed thereto. The
15 person residing at that address may write one of the following
16 notations on the front of the unopened official mail-in ballot
17 envelope:

18 (1) Return to Sender - No Longer at this Address;
19 (2) Return to Sender - Moved out of State or County;
20 (3) Return to Sender – Deceased; or
21 (4) any other notations deemed appropriate by the Secretary of
22 State.

23 b. The Secretary of State shall prepare and transmit, within 60
24 days of the effective date of this act, P.L. , c. (C.) (pending before
25 the Legislature as this bill), instructions on how to return an
26 unopened official mail-in ballot envelope to sender. The instructions
27 prepared by the Secretary of State shall be contained in any printed
28 or electronic voter information notices or educational materials
29 provided or disseminated by the Department of State. The New
30 Jersey Division of Elections and each county clerk and board of
31 elections in this State shall also make available on their websites, if
32 one exists, the instructions prepared by the Secretary of State.

33
34 2. Section 3 of P.L.2009, c.79 (C.19:63-3) is amended to read as
35 follows:

36 3. a. A qualified voter shall be entitled to vote using a mail-in
37 ballot:

38 (1) in all future elections, including general elections, held in this
39 State, in which the voter is eligible to vote; or
40 (2) in any single election held in this State.

41 The qualified voter who chooses the option to vote using a mail-
42 in ballot in all future elections shall be furnished with such a ballot
43 by the county clerk without further request on the part of the voter
44 and until the voter requests in writing that the voter no longer be sent
45 a mail-in ballot.

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 mail-in ballot application form prepared by the Secretary of
2 State shall present the two options in the order provided above. The
3 mail-in ballot application shall also provide spaces for the voter's
4 telephone number and email address, including language informing
5 the voter that this contact information will be used to contact the
6 voter concerning the acceptance or rejection of the ballot, and how
7 the voter may cure a defect. A voter's telephone number and email
8 address shall not be subject to public disclosure and shall not be
9 considered a government record.

10 The additional direct expenditures required for the
11 implementation of the provisions of this subsection as amended by
12 section 1 of P.L.2018, c.72 shall be offset pursuant to section 1 of
13 P.L.2019, c.459 (C.19:63-29).

14 b. Not less than seven days before an election in which a voter
15 wants to vote by mail, the voter may apply to the person designated
16 in section 5 of P.L.2009, c.79 (C.19:63-5), for a mail-in ballot. The
17 application shall be in writing, shall be signed by the applicant and
18 shall state the applicant's place of voting residence and the address to
19 which the ballot shall be sent. The Secretary of State shall prepare a
20 mail-in application form and shall have the authority to promulgate
21 any rules and regulations the secretary deems necessary to effectuate
22 the purposes of this subsection.

23 c. Any voter wanting to vote by mail in any election may apply
24 to the person designated in section 5 of P.L.2009, c.79 (C.19:63-5)
25 for a mail-in ballot to be sent to the voter. A voter who is a member
26 of the armed forces of the United States may use a federal postcard
27 application form to apply for a mail-in ballot.

28 d. Any voter who fails to apply for a mail-in ballot before the
29 seven-day period prescribed in subsection b. of this section may
30 apply in person to the county clerk for a mail-in ballot up to 3 p.m.
31 of the day before the election.

32 e. A person voting by mail-in ballot who registered by mail after
33 January 1, 2003, who did not provide personal identification
34 information when registering pursuant to section 16 of P.L.1974, c.30
35 (C.19:31-6.4) and is voting for the first time in his or her current
36 county of residence following registration shall include copies of the
37 required identification information with the mail-in ballot. Failure to
38 include such information with the mail-in ballot shall result in its
39 rejection.

40 f. The county clerk shall not transmit a mail-in ballot for any
41 election to any person who: is deemed by a county commissioner of
42 registration to be an inactive voter; or notifies the clerk in writing
43 that the person no longer wishes to receive such a ballot for any
44 election; or is no longer eligible to vote and whose registration file
45 has been transferred to the deleted file pursuant to R.S.19:31-19.

46 g. The envelope in which the official mail-in ballot is sent shall
47 be clearly marked "Do Not Forward. Return to Sender. Return
48 Postage Guaranteed."

1 h. Any mail-in ballot that is sent to a qualified voter and that is
2 returned to the county clerk for any reason shall be forwarded to the
3 commissioner of registration within 30 days from the date the mail-
4 in ballot is returned to the county clerk, who shall so note the return
5 in the voter record of that voter. If the reason the mail-in ballot is
6 returned is due to the death of the qualified voter, the commissioner
7 of registration shall determine if the death was filed by the officer in
8 charge of records of death in the municipality in which the decedent
9 resided as prescribed in R.S.19:31-16 and shall undertake the
10 procedures provided in that section.

11 (cf: P.L.2020, c.70, s.8)

12

13 3. Section 12 of P.L.2009, c.79 (C.19:63-12) is amended to read
14 as follows:

15 12. Each county clerk shall send, with each mail-in ballot, printed
16 directions for the preparation and transmitting of the ballots as
17 required by this act. The directions shall be printed in such manner
18 and form as the Secretary of State shall require, together with two
19 envelopes of such sizes that one will contain the other. The directions
20 prepared by the Secretary of State shall inform the voter that the
21 status of the voter's mail-in ballot may be checked using the free-
22 access system provided in section 5 of P.L.2004, c.88 (C.19:61-5).

23 The outer envelope shall be addressed to the county board of
24 elections of the county in which is located the home address of the
25 person to whom the mail-in ballot is sent, as certified by the county
26 clerk. At the discretion of the county clerk, the outer envelope may
27 be a postage paid return envelope. On the outside and front of each
28 outer envelope, there shall be printed or stamped the following:

29 To protect your vote:

30 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE
31 VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS
32 THE ENVELOPE IS SEALED AND THE FOLLOWING IS
33 COMPLETED:

34 Ballot mailed or transported by

35 (signature of bearer)

36 (print name of bearer)

37 (address of bearer)

38 The reserve side of the outer envelope shall contain the following:

39 REMINDER

40 For your vote to count, you must:

41 1) Vote your ballot and place it in the inner envelope with the
42 attached certificate.

43 2) Seal the envelope.

44 3) Place the envelope into the larger envelope addressed to the
45 board of elections and seal that envelope.

46 4) If another person will be mailing your ballot or bringing it to
47 the board of elections, MAKE CERTAIN THAT PERSON
48 COMPLETES THE "BEARER PORTION" ON THE ENVELOPE

1 ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE
2 BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A
3 CANDIDATE IN THE ELECTION FOR WHICH THE VOTER
4 REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A
5 BEARER. NO PERSON IS PERMITTED TO SERVE AS A
6 BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN
7 AN ELECTION, BUT A PERSON MAY SERVE AS SUCH FOR
8 UP TO FIVE QUALIFIED VOTERS IN AN ELECTION IF THOSE
9 VOTERS ARE IMMEDIATE FAMILY MEMBERS RESIDING IN
10 THE SAME HOUSEHOLD AS THE BEARER.

11 The Secretary of State is authorized to make such changes to the
12 instructions for mail-in ballot materials as the Secretary of State
13 deems necessary or as is mandated by federal or State law.

14 The inner envelope shall be so designed that it can be sealed after
15 the mail-in ballot has been placed therein and the flap thereof shall
16 be of such length and size as to leave sufficient margin, after sealing,
17 for the printing thereon of the certificate hereinafter described. The
18 flap shall be so arranged that, after the inner envelope has been
19 sealed, the certificate can be contained, with the inner envelope, in
20 the outer envelope, and that the margin containing the certificate can
21 be detached without unsealing the inner envelope.

22 On the outside of each envelope in which a mail-in ballot is sent
23 to a mail-in voter by the clerk, there shall be printed or stamped the
24 words “Do Not Forward. Return to Sender. Return Postage
25 Guaranteed” and “Official Mail-In Ballot.” In addition, there shall
26 be printed or stamped the following:

27 To protect your vote:

28 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE
29 VOTER TO OPEN, MARK, INSPECT OR SEAL THIS BALLOT.

30 However, a family member may assist you in doing so.

31 The reverse side of each inner envelope shall contain the following
32 statement:

33 A PERSON MAY BE FINED AND IMPRISONED AND MAY
34 ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW
35 if that person attempts to vote fraudulently by mail-in ballot, prevents
36 the voting of a legal voter, certifies falsely any information, interferes
37 with a person's secrecy of voting, tampers with ballots or election
38 documents or helps another person to do so.

39 (cf: P.L.2020, c.71, s.10)

40

41 4. Section 17 of P.L.2009, c.79 (C.19:63-17) is amended to read
42 as follows:

43 17. a. The county board of elections shall, promptly after
44 receiving each mail-in ballot, remove the inner envelope containing
45 the ballot from the outer envelope and shall compare the signature
46 and the information contained on the flap of the inner envelope with
47 the signature and information contained in the respective requests for
48 mail-in ballots and the signature and information contained in the

1 Statewide voter registration system. In addition, as to mail-in ballots
2 issued less than seven days prior to an election, the county board of
3 elections shall also check to establish that the mail-in voter did not
4 vote in person. The county board shall reject such a ballot if it is not
5 satisfied, pursuant to a comparison with the Statewide voter
6 registration system, that the voter is legally entitled to vote and that
7 the ballot conforms with the requirements of this act. The county
8 board of elections shall conduct the determination of qualification of
9 each voter in accordance with the requirements of the Certificate of
10 Mail-in Voter pursuant to section 13 of P.L.2009, c.79 (C.19:63-13).
11 When the voter failed to include the Certificate of Mail-in Voter or
12 includes a detached Certificate of Mail-in Voter, the county board of
13 elections shall permit the voter to cure the mail-in ballot as provided
14 under subsection b. of this section.

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

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

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

35 After such investigation, the county board of elections shall detach
36 or separate the certificate from the inner envelope containing the
37 mail-in ballot, unless it has been rejected by it or by the Superior
38 Court, marking the envelope so as to identify the election district in
39 which the ballot contained therein is to be voted as indicated by the
40 voter's home address appearing on the certificate attached to or
41 accompanying the inner envelope and, in the case of ballots to be
42 voted at a primary election for a general election, so as to identify the
43 political party in the primary election of which it is to be voted.

44 The location at which a county board of elections determines
45 whether a mail-in ballot shall be accepted or rejected shall be
46 considered an election district for the purposes of appointment of
47 challengers.

1 b. The county board of elections shall, promptly after receiving
2 each mail-in ballot, undertake the following procedures and
3 requirements concerning the acceptance or rejection of each mail-in
4 ballot:

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

15 (2) when the alleged or actual deficiency involves the signature
16 of the voter, instruct the voter that they may cure the deficiency by
17 completing the cure form and returning it to the county board of
18 elections in person, by fax, or by email, not later than 48 hours prior
19 to the final certification of the results of the election, or by returning
20 it to the county board of elections by mail, and that the completed
21 cure form must be received by the county board of elections not later
22 than 48 hours prior to the final certification of the results of the
23 election;

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

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

45 (5) when the voter failed to include the Certificate of Mail-in
46 Voter required pursuant to section 13 of P.L.2009, c.79 (C.19:63-13)
47 or includes a detached Certificate of Mail-in Voter, provide the voter,
48 along with the Cure Letter and Cure Form, with a substantially

1 similar certificate for the voter to complete in order to cure the voter's
2 mail-in ballot in accordance with the same requirements, procedures,
3 and timeframes specified in this subsection.

4 c. If a voter returns a completed cure form in a timely manner
5 and the information provided verifies the voter's identity, pursuant to
6 this section, their otherwise valid mail-in or provisional ballot shall
7 be counted in the final election results irrespective of any signature
8 deficiency previously identified and, under those circumstances, the
9 cure form may not be verified or authenticated using signature
10 matching.

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

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

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

25 The Secretary of State shall prepare educational materials
26 regarding this section that all employed county boards of elections
27 employees handling ballots shall read and have available for review.
28 The materials shall provide clear information regarding the standards
29 for acceptance and rejection of mail-in ballots and the safe-keeping
30 of all materials in the case of rejection. The materials shall serve an
31 educational purpose for the county board of elections and shall not
32 replace, supersede, or void the authority of the county board or a
33 judge of the Superior Court to accept or reject a mail-in ballot.

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

35

36 5. R.S.19:31-16 is amended to read as follows:

37 19:31-16. a. The health officer or other officer in charge of
38 records of death in each municipality shall file with the commissioner
39 of registration for the county in which the municipality is located
40 once each month, during the first five days thereof, the age, date of
41 death, and the names and addresses of all persons 18 years of age or
42 older who have died within such municipality during the previous
43 month. Within 30 days after the receipt of such list, the
44 commissioner shall make and complete such investigation as is
45 necessary to establish to his satisfaction that such deceased person is
46 registered as a voter in the county. If such fact is so established, the
47 commissioner shall cause the registration and record of voting forms
48 of the deceased registrant to be transferred to the death file as soon

1 as possible, but not later than 30 days, after such investigation is
2 completed. If the deceased person was not so registered in the
3 county, but the person maintained a residence in another county of
4 this State, the officer in charge of records of death in the municipality
5 in which the decedent died shall forward a copy of the notice of death
6 to the officer in charge of records of death in the municipality in
7 which the decedent resided. That officer having received the notice
8 shall notify the commissioner of the county in which that
9 municipality is located of the death of the person. Any commissioner
10 who receives such notification shall undertake the procedures
11 prescribed herein with respect to the registration in that county of the
12 decedent.

13 b. The State registrar of vital statistics shall file with the
14 commissioner of registration of each county no later than May 1 of
15 each year an alphabetized list of the name, address, and date of birth,
16 if available, of each resident of the county 18 years of age or older
17 who died during the previous year. Within 30 days after the receipt
18 of the list the commissioner shall undertake and complete such
19 investigation as is necessary to establish that each person on the list
20 is not registered as a voter in the county. The commissioner shall
21 cause the registration and record of voting forms of any deceased
22 registrant found on the list to be transferred to the death file as soon
23 as possible, but not later than 30 days, after such investigation is
24 completed.

25 (cf: P.L.2011, c.134, s.40)

26

27 6. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill clarifies that an official mail-in ballot envelope is for the
33 intended recipient only. When an official mail-in ballot is mailed to
34 an address at which the listed voter no longer resides, the person
35 residing at that address may return the ballot to the county clerk of
36 the county in which the ballot was issued. The person residing at that
37 address may return the unopened official mail-in ballot envelope in
38 person to the county clerk or deposit the envelope in a ballot drop
39 box or any outgoing United States Postal Service mailbox or letter
40 collection box with a return to sender notation on the front of the
41 envelope. Under the bill, the person residing at that address may
42 write one of the following notations on the front of the unopened
43 official mail-in ballot envelope:

44 (1) Return to Sender - No Longer at this Address;

45 (2) Return to Sender - Moved out of State or County;

46 (3) Return to Sender – Deceased; or

47 (4) any other notations deemed appropriate by the Secretary of
48 State.

1 Under the bill, the Secretary of State is required to prepare and
2 transmit, within 60 days of the bill's effective date, instructions on
3 how to return an unopened official mail-in ballot envelope to sender.
4 The instructions prepared by the Secretary of State are required to be
5 contained in any printed or electronic voter information notices or
6 educational materials provided or disseminated by the Department of
7 State. The New Jersey Division of Elections and each county clerk
8 and board of elections in this State must make available on their
9 websites, if one exists, the instructions prepared by the Secretary of
10 State.

11 This bill also requires the words "Do Not Forward. Return to
12 Sender. Return Postage Guaranteed." to be printed or stamped on the
13 official mail-in ballot envelope sent by the county clerks.

14 Under the bill, any mail-in ballot that is sent to a qualified voter
15 and that is returned to the county clerk for any reason is required to
16 be forwarded by the county clerk to the commissioner of registration
17 within 30 days from the date the mail-in ballot is returned to the
18 county clerk. If the reason the mail-in ballot is returned is due to the
19 death of the qualified voter, the commissioner of registration is
20 required to determine if the death was filed by the officer in charge
21 of records of death in the municipality in which the decedent resided
22 as prescribed in current law and must undertake the procedures
23 provided in current law. The bill requires that any deceased
24 registrant on the monthly or yearly list of deceased persons 18 years
25 of age or older to be transferred to the death file within 30 days after
26 the investigation provided in current law is completed.

27 Under the bill, a mail-in voter is permitted to cure their mail-in
28 ballot due to a missing or detached mail-in voter certificate. Under
29 current law, each mail-in voter is required to complete the Certificate
30 of Mail-in Voter that is attached to the flap of the mail-in ballot inner
31 envelope. By completing the certificate, the mail-in voter certifies,
32 subject to the penalties for fraudulent voting: the voter's address, that
33 the voter is the person who applied for the enclosed ballot, that the
34 voter marked the ballot in secret, and that a family member may
35 provide assistance to the voter. The mail-in voter and any person
36 who provided assistance to the voter are required to sign the
37 certificate.

38 Under this bill, when the voter failed to include the Certificate of
39 Mail-in Voter or includes a detached Certificate of Mail-in Voter, the
40 county board of elections would be required to provide the voter,
41 along with the Cure Letter and Cure Form, with a substantially
42 similar certificate for the voter to complete in order to cure the voter's
43 mail-in ballot in accordance with the same requirements, procedures,
44 and timeframes specified for ballot curing due to a missing or
45 discrepant signature.