

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0105.01 John Hershey

HOUSE BILL 08-1128

HOUSE SPONSORSHIP

Marostica,

SENATE SPONSORSHIP

Gordon,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE VERIFICATION OF SIGNATURES OF ELECTORS, AND,**
102 **IN CONNECTION THEREWITH, AUTHORIZING THE USE OF**
103 **SIGNATURE VERIFICATION DEVICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes county clerks and recorders to access the digitized signatures in the statewide voter registration system in order to compare an elector's signature in the system with the signature on the return envelope of a mail-in ballot or mail ballot, including by using a signature verification device.

In a statewide primary or general election or a coordinated mail

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

ballot election, requires election judges to compare an elector's signature on the return envelope of a mail-in ballot or mail ballot with the elector's signature in the statewide voter registration system instead of the one on file in the office of the county clerk and recorder. Authorizes the designated election official to allow an election judge to use a signature verification device to compare the signatures. States that the signature on the return envelope is deemed verified if the signature verification device determines that the signatures match. Requires an election judge to compare the signatures if the signature verification device is unable to determine that the signatures match.

States that the return envelope for a mail-in ballot or mail ballot shall not be required to have a flap covering the signature or otherwise impede the use of a signature verification device.

Directs the secretary of state to adopt rules establishing procedures for using signature verification devices to process ballots.

Clarifies and makes consistent various provisions on verifying signatures on mail-in ballot and mail ballot return envelopes.

Makes conforming amendments. Deletes obsolete provisions.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 1-2-301 (4) (a) (II), Colorado Revised Statutes, is
3 amended to read:

4 **1-2-301. Centralized statewide registration system - secretary**
5 **of state to maintain computerized statewide voter registration list -**
6 **county computer records - agreement to match information.**

7 (4) (a) (II) The centralized statewide registration system shall enable
8 county clerks and recorders to maintain voter registration information and
9 shall include such additional capabilities as may be necessary or desirable
10 to enable county clerks and recorders and the secretary of state to carry
11 out their responsibilities related to the conduct of elections. Such
12 additional capabilities may include but need not be limited to the
13 preparation of ballots, the identification of voting districts for each
14 address, access by county clerks and recorders to the master list of
15 registered electors and, on or after January 1, 2006, the computerized

1 statewide voter registration list maintained pursuant to this section and
2 section 1-2-302, the management of mail-in and mail ballots, the
3 preparation of official abstracts of votes cast, the transmission of voting
4 data from county clerks and recorders to the secretary of state, and
5 reporting of voting results on election night. COUNTY CLERKS AND
6 RECORDERS SHALL HAVE ACCESS TO THE DIGITIZED SIGNATURES OF
7 ELECTORS IN THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM FOR
8 THE PURPOSE OF COMPARING AN ELECTOR'S SIGNATURE IN THE SYSTEM
9 WITH THE SIGNATURE ON THE RETURN ENVELOPE OF A MAIL-IN BALLOT OR
10 MAIL BALLOT, INCLUDING BY USING A SIGNATURE VERIFICATION DEVICE
11 IN ACCORDANCE WITH SECTIONS 1-7.5-107.3 (5) AND 1-8-114.5 (5).

12 **SECTION 2.** 1-7.5-107.3 (1), (2) (a), (2) (c), (3), and (4) (a),
13 Colorado Revised Statutes, are amended, and the said 1-7.5-107.3 is
14 further amended BY THE ADDITION OF A NEW SUBSECTION, to
15 read:

16 **1-7.5-107.3. Verification of signatures - November coordinated**
17 **elections.** (1) (a) Except as provided in ~~paragraph (b) of this subsection~~
18 ~~(1) SUBSECTION (5) OF THIS SECTION~~, in every mail ballot election that is
19 a November coordinated election, ~~held in 2005 or any subsequent year~~,
20 an election judge shall compare the signature on the self-affirmation on
21 each return envelope with the signature of the eligible elector ~~on file in~~
22 ~~the office of the county clerk and recorder~~ IN THE STATEWIDE VOTER
23 REGISTRATION SYSTEM in accordance with ~~subsection (2)~~ SUBSECTIONS
24 (2), (3), AND (4) of this section.

25 (b) ~~For the mail ballot election that is a November coordinated~~
26 ~~election held in 2003, the election judge shall compare in accordance with~~
27 ~~paragraph (a) of this subsection (1) only those signatures that are in the~~

1 ~~county clerk and recorder's database no later than 7 p.m. on election day.~~

2 (2) (a) If, upon comparing the signature of an eligible elector on
3 the self-affirmation on the return envelope with the signature of the
4 eligible elector ~~on file with the county clerk and recorder~~ IN THE
5 STATEWIDE VOTER REGISTRATION SYSTEM, the election judge determines
6 that the signatures do not match, OR IF A SIGNATURE VERIFICATION DEVICE
7 USED PURSUANT TO SUBSECTION (5) OF THIS SECTION IS UNABLE TO
8 DETERMINE THAT THE SIGNATURES MATCH, two other election judges of
9 different political party affiliations shall simultaneously compare the
10 signatures. If both other election judges agree that the signatures do not
11 match, the county clerk and recorder shall, within two days after election
12 day, send to the eligible elector at the address indicated in the registration
13 records a letter explaining the discrepancy in signatures and a form for the
14 eligible elector to confirm that the elector returned a ballot to the county
15 clerk and recorder. If the county clerk and recorder receives the form
16 within eight days after election day confirming that the elector returned
17 a ballot to the county clerk and recorder and enclosing a copy of the
18 elector's identification as defined in section 1-1-104 (19.5), and if the
19 ballot is otherwise valid, the ballot shall be counted. If the eligible elector
20 returns the form indicating that the elector did not return a ballot to the
21 county clerk and recorder, or if the eligible elector does not return the
22 form within eight days after election day, the self-affirmation on the
23 return envelope shall be categorized as incorrect, the ballot shall not be
24 counted, and the county clerk and recorder shall send copies of the
25 eligible elector's signature on the return envelope and the signature ~~on file~~
26 ~~with the county clerk and recorder~~ IN THE STATEWIDE VOTER
27 REGISTRATION SYSTEM to the district attorney for investigation.

1 (c) In the case of a disagreement among the election judges as to
2 whether the signature of an eligible elector on the self-affirmation on the
3 return envelope matches the signature of the eligible elector ~~on file with~~
4 ~~the county clerk and recorder~~ IN THE STATEWIDE VOTER REGISTRATION
5 SYSTEM pursuant to the procedures specified in paragraph (a) of this
6 subsection (2), the ~~mail ballot contained in the return envelope shall be~~
7 ~~counted in accordance with the requirements of sections 1-7.5-107 (6)~~
8 ~~and 1-7.5-107.5~~ SIGNATURES ARE DEEMED TO MATCH, AND THE ELECTION
9 JUDGE SHALL FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-7.5-107
10 (6) CONCERNING THE QUALIFICATION AND COUNTING OF MAIL BALLOTS.

11 (3) If the election judge determines that the signature of an
12 eligible elector on the self-affirmation matches the elector's signature ~~on~~
13 ~~file with the county clerk and recorder~~ IN THE STATEWIDE VOTER
14 REGISTRATION SYSTEM, the election judge shall follow the procedures
15 specified in section 1-7.5-107 ~~(5)~~ and (6) concerning the qualification and
16 counting of mail ballots.

17 (4) (a) An election judge shall not determine that the signature of
18 an eligible elector on the self-affirmation does not match the signature of
19 that eligible elector ~~on file with the county clerk and recorder~~ IN THE
20 STATEWIDE VOTER REGISTRATION SYSTEM solely on the basis of
21 substitution of initials or use of a common nickname.

22 (5) (a) A DESIGNATED ELECTION OFFICIAL MAY ALLOW AN
23 ELECTION JUDGE TO USE A SIGNATURE VERIFICATION DEVICE TO COMPARE
24 THE SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN
25 ELIGIBLE ELECTOR'S BALLOT WITH THE SIGNATURE OF THE ELECTOR IN THE
26 STATEWIDE VOTER REGISTRATION SYSTEM IN ACCORDANCE WITH THIS
27 SUBSECTION (5) AND THE RULES ADOPTED BY THE SECRETARY OF STATE

1 PURSUANT TO SECTION 1-8-114.5 (5) (c).

2 (b) IF A SIGNATURE VERIFICATION DEVICE DETERMINES THAT THE
3 SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN
4 ELIGIBLE ELECTOR'S BALLOT MATCHES THE SIGNATURE OF THE ELECTOR
5 IN THE STATEWIDE VOTER REGISTRATION SYSTEM, THE SIGNATURE ON THE
6 SELF-AFFIRMATION IS DEEMED VERIFIED, AND THE ELECTION JUDGE SHALL
7 FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-7.5-107 (6)
8 CONCERNING THE QUALIFICATION AND COUNTING OF MAIL BALLOTS. IF A
9 SIGNATURE VERIFICATION DEVICE IS UNABLE TO DETERMINE THAT THE
10 SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN
11 ELIGIBLE ELECTOR'S MAIL BALLOT MATCHES THE SIGNATURE OF THE
12 ELECTOR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, AN ELECTION
13 JUDGE SHALL COMPARE THE SIGNATURES IN ACCORDANCE WITH
14 SUBSECTIONS (2), (3), AND (4) OF THIS SECTION.

15 **SECTION 3.** 1-7.5-107 (3) (b.5), Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

17 **1-7.5-107. Procedures for conducting mail ballot election -**
18 **first-time voters casting a mail ballot after having registered by mail**
19 **to vote.** (3) (b.5) (III) THE RETURN ENVELOPE SHALL NOT BE REQUIRED
20 TO HAVE A FLAP COVERING THE SIGNATURE OR OTHERWISE IMPEDE THE
21 USE OF A SIGNATURE VERIFICATION DEVICE.

22 **SECTION 4.** 1-7.5-107 (5) (c), Colorado Revised Statutes, is
23 amended to read:

24 **1-7.5-107. Procedures for conducting mail ballot election -**
25 **first-time voters casting a mail ballot after having registered by mail**
26 **to vote.** (5) (c) For November coordinated elections only, the signature
27 of the eligible elector on the return envelope shall be compared with the

1 signature of the eligible elector ~~on file in the office of the county clerk~~
2 ~~and recorder~~ IN THE STATEWIDE VOTER REGISTRATION SYSTEM in
3 accordance with section 1-7.5-107.3.

4 **SECTION 5.** 1-8-114, Colorado Revised Statutes, is amended BY
5 THE ADDITION OF A NEW SUBSECTION to read:

6 **1-8-114. Self-affirmation on return envelope.** (4) THE RETURN
7 ENVELOPE SHALL NOT BE REQUIRED TO HAVE A FLAP COVERING THE
8 SIGNATURE OR OTHERWISE IMPEDE THE USE OF A SIGNATURE VERIFICATION
9 DEVICE.

10 **SECTION 6.** 1-8-114.5 (1), (2) (a), (2) (c), (3), and (4) (a),
11 Colorado Revised Statutes, are amended, and the said 1-8-114.5 is further
12 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

13 **1-8-114.5. Verification of signatures - rules.** (1) (a) Except as
14 provided in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (5) OF THIS
15 SECTION, in every statewide primary and general election, ~~held in 2006 or~~
16 ~~any subsequent year~~, an election judge shall compare the signature on the
17 self-affirmation on each return envelope of each mail-in ballot with the
18 signature of the eligible elector ~~on file in the office of the county clerk~~
19 ~~and recorder~~ IN THE STATEWIDE VOTER REGISTRATION SYSTEM in
20 accordance with ~~subsection (2)~~ SUBSECTIONS (2), (3), AND (4) of this
21 section.

22 (b) ~~For the statewide primary and general election held in 2004,~~
23 ~~the election judge shall compare in accordance with paragraph (a) of this~~
24 ~~subsection (1) only those signatures that are in the county clerk and~~
25 ~~recorder's database.~~

26 (2) (a) If, upon comparing the signature of an eligible elector on
27 the self-affirmation on the return envelope with the signature of that

1 eligible elector ~~on file with the county clerk and recorder~~ IN THE
2 STATEWIDE VOTER REGISTRATION SYSTEM, the election judge determines
3 that the signatures do not match, OR IF A SIGNATURE VERIFICATION DEVICE
4 USED PURSUANT TO SUBSECTION (5) OF THIS SECTION IS UNABLE TO
5 DETERMINE THAT THE SIGNATURES MATCH, two other election judges of
6 different political party affiliations shall simultaneously compare the
7 signatures. If both other election judges agree that the signatures do not
8 match, the county clerk and recorder shall, within two days after election
9 day, send to the eligible elector at the address indicated in the registration
10 records a letter explaining the discrepancy in signatures and a form for the
11 eligible elector to confirm that the elector voted, signed the
12 self-affirmation, and returned a ballot to the county clerk and recorder. If
13 the county clerk and recorder receives the form within eight days after
14 election day confirming that the elector voted, signed the self-affirmation,
15 and returned a ballot to the county clerk and recorder and enclosing a
16 copy of the elector's identification as defined in section 1-1-104 (19.5),
17 and if the ballot is otherwise valid, the ballot shall be counted. If the
18 eligible elector does not enclose a copy of the elector's identification as
19 defined in section 1-1-104 (19.5) along with the form, the self-affirmation
20 on the return envelope shall be categorized as incorrect and the ballot
21 shall not be counted. If the eligible elector returns the form indicating
22 that the elector did not vote, sign the self-affirmation, or return a ballot to
23 the county clerk and recorder, or if the eligible elector does not return the
24 form within eight days after election day, the self-affirmation on the
25 return envelope shall be categorized as incorrect, the ballot shall not be
26 counted, and the county clerk and recorder shall send copies of the
27 eligible elector's signature on the return envelope and the signature ~~on file~~

1 ~~with the county clerk and recorder~~ IN THE STATEWIDE VOTER
2 REGISTRATION SYSTEM to the district attorney for investigation.

3 (c) In the case of a disagreement among the election judges as to
4 whether the signature of an eligible elector on the self-affirmation on the
5 return envelope matches the signature of the eligible elector ~~on file with~~
6 ~~the county clerk and recorder~~ IN THE STATEWIDE VOTER REGISTRATION
7 SYSTEM pursuant to the procedures specified in paragraph (a) of this
8 subsection (2), the ~~mail-in ballot contained in the return envelope shall be~~
9 ~~counted in accordance with the requirements of part 3 of this article~~
10 SIGNATURES ARE DEEMED TO MATCH, AND THE ELECTION JUDGE SHALL
11 FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-8-304 CONCERNING THE
12 QUALIFICATION AND COUNTING OF MAIL-IN BALLOTS.

13 (3) If the election judge determines that the signature of an
14 eligible elector on the self-affirmation matches the elector's signature ~~on~~
15 ~~file with the county clerk and recorder~~ IN THE STATEWIDE VOTER
16 REGISTRATION SYSTEM, the election judge shall follow the procedures
17 specified in ~~part 3 of this article pertaining to the~~ SECTION 1-8-304
18 CONCERNING THE QUALIFICATION AND counting of mail-in ballots.

19 (4) (a) An election judge shall not determine that the signature of
20 an eligible elector on the self-affirmation does not match the signature of
21 that eligible elector ~~on file with the county clerk and recorder~~ IN THE
22 STATEWIDE VOTER REGISTRATION SYSTEM solely on the basis of
23 substitution of initials or use of a common nickname.

24 (5) (a) A DESIGNATED ELECTION OFFICIAL MAY ALLOW AN
25 ELECTION JUDGE TO USE A SIGNATURE VERIFICATION DEVICE TO COMPARE
26 THE SIGNATURE ON THE SELF-AFFIRMATION ON THE RETURN ENVELOPE OF
27 AN ELIGIBLE ELECTOR'S MAIL-IN BALLOT WITH THE SIGNATURE OF THE

1 ELECTOR IN THE STATEWIDE VOTER REGISTRATION SYSTEM IN
2 ACCORDANCE WITH THIS SUBSECTION (5) AND THE RULES ADOPTED BY THE
3 SECRETARY OF STATE PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION
4 (5).

5 (b) IF A SIGNATURE VERIFICATION DEVICE DETERMINES THAT THE
6 SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN
7 ELIGIBLE ELECTOR'S MAIL-IN BALLOT MATCHES THE SIGNATURE OF THE
8 ELECTOR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, THE
9 SIGNATURE ON THE SELF-AFFIRMATION IS DEEMED TO MEET THE
10 REQUIREMENT OF SECTION 1-8-304 (1) (b) (III), AND THE ELECTION JUDGE
11 SHALL FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-8-304
12 CONCERNING THE QUALIFICATION AND COUNTING OF MAIL-IN BALLOTS. IF
13 A SIGNATURE VERIFICATION DEVICE IS UNABLE TO DETERMINE THAT THE
14 SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN
15 ELIGIBLE ELECTOR'S MAIL-IN BALLOT MATCHES THE SIGNATURE OF THE
16 ELECTOR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, AN ELECTION
17 JUDGE SHALL COMPARE THE SIGNATURES IN ACCORDANCE WITH
18 SUBSECTIONS (2), (3), AND (4) OF THIS SECTION.

19 (c) THE SECRETARY OF STATE SHALL ADOPT RULES IN
20 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., ESTABLISHING
21 PROCEDURES FOR USING SIGNATURE VERIFICATION DEVICES TO PROCESS
22 MAIL-IN BALLOTS PURSUANT TO THIS ARTICLE AND BALLOTS USED IN MAIL
23 BALLOT ELECTIONS PURSUANT TO ARTICLE 7.5 OF THIS TITLE.

24 **SECTION 7.** 1-8-304 (1) (a), (1) (b) (III), and (1) (d), Colorado
25 Revised Statutes, are amended to read:

26 **1-8-304. Preparing to count mail-in ballots - rejections.**

27 (1) (a) Before opening any mail-in ballot, one of the receiving judges, in

1 the presence of a majority of the receiving judges, shall inspect the
2 self-affirmation on the return envelope. ~~and, in an election coordinated by~~
3 ~~the county clerk and recorder, compare the signature on the~~
4 ~~self-affirmation with the signature of the eligible elector on file in the~~
5 ~~county clerk and recorder's office.~~

6 (b) (III) In an election coordinated by the county clerk and
7 recorder, the signature on the self-affirmation matches the signature ~~on~~
8 ~~file in the county clerk and recorder's office~~ IN THE STATEWIDE VOTER
9 REGISTRATION SYSTEM, or the eligible elector's marks on the application
10 and the self-affirmation were witnessed by other persons.

11 (d) For purposes of subparagraph (III) of paragraph (b) of this
12 subsection (1), the signatures on an eligible elector's self-affirmation and
13 ~~on file in the county clerk and recorder's office~~ IN THE STATEWIDE VOTER
14 REGISTRATION SYSTEM shall be compared in the ~~same~~ manner as
15 ~~signatures on mail ballots are compared pursuant to article 7.5 of this title~~
16 PRESCRIBED BY SECTION 1-8-114.5.

17 **SECTION 8. Applicability.** This act shall apply to elections held
18 on or after the effective date of this act.

19 **SECTION 9. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.