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HOUSE BILL 08-1128

BY REPRESENTATIVE(S) Marostica, Casso, Garza-Hicks, Green, Hodge, Labuda, Rice, and Todd;
also SENATOR(S) Gordon, and Tupa.

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

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

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

1-2-301. Centralized statewide registration system - secretary of state to maintain computerized statewide voter registration list - county computer records - agreement to match information. (4) (a) (II) The centralized statewide registration system shall enable county clerks and recorders to maintain voter registration information and shall include such additional capabilities as may be necessary or desirable to enable county clerks and recorders and the secretary of state to carry out their responsibilities related to the conduct of elections. Such additional capabilities may include but need not be limited to the preparation of ballots, the identification of voting districts for each address, access by

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

county clerks and recorders to the master list of registered electors and, on or after January 1, 2006, the computerized statewide voter registration list maintained pursuant to this section and section 1-2-302, the management of mail-in and mail ballots, the preparation of official abstracts of votes cast, the transmission of voting data from county clerks and recorders to the secretary of state, and reporting of voting results on election night. COUNTY CLERKS AND RECORDERS SHALL HAVE ACCESS TO THE DIGITIZED SIGNATURES OF ELECTORS IN THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM FOR THE PURPOSE OF COMPARING 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 ACCORDANCE WITH SECTIONS 1-7.5-107.3 (5) AND 1-8-114.5 (5).

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

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

~~(b) For the mail ballot election that is a November coordinated election held in 2003, the election judge shall compare in accordance with paragraph (a) of this subsection (1) only those signatures that are in the county clerk and recorder's database no later than 7 p.m. on election day.~~

(2) (a) If, upon comparing the signature of an eligible elector on the self-affirmation on the return envelope with the signature of the eligible elector on file with the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, the election judge determines that the signatures do not match, OR IF A SIGNATURE VERIFICATION DEVICE USED PURSUANT TO SUBSECTION (5) OF THIS SECTION IS UNABLE TO DETERMINE THAT THE SIGNATURES MATCH, two other election judges of different political party affiliations shall simultaneously compare the signatures. If

both other election judges agree that the signatures do not match, the county clerk and recorder shall, within two days after election day, send to the eligible elector at the address indicated in the registration records a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder. If the county clerk and recorder receives the form within eight days after election day confirming that the elector returned a ballot to the county clerk and recorder and enclosing a copy of the elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector returns the form indicating that the elector did not return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and the county clerk and recorder shall send copies of the eligible elector's signature on the return envelope and the signature on file with the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM to the district attorney for investigation.

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

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

(4) (a) An election judge shall not determine that the signature of an eligible elector on the self-affirmation does not match the signature of that eligible elector on file with the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM solely on the basis of substitution

of initials or use of a common nickname.

(5) (a) A DESIGNATED ELECTION OFFICIAL MAY ALLOW AN ELECTION JUDGE TO USE A SIGNATURE VERIFICATION DEVICE TO COMPARE THE SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN ELIGIBLE ELECTOR'S BALLOT WITH THE SIGNATURE OF THE ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM IN ACCORDANCE WITH THIS SUBSECTION (5) AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO SECTION 1-8-114.5 (5) (c).

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

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

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

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

1-7.5-107. Procedures for conducting mail ballot election - first-time voters casting a mail ballot after having registered by mail to

vote. (5) (c) For November coordinated elections only, the signature of the eligible elector on the return envelope shall be compared with the signature of the eligible elector on file in the office of the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM in accordance with section 1-7.5-107.3.

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

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

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

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

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

(2) (a) If, upon comparing the signature of an eligible elector on the self-affirmation on the return envelope with the signature of that eligible elector on file with the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, the election judge determines that the signatures do not match, OR IF A SIGNATURE VERIFICATION DEVICE USED PURSUANT TO SUBSECTION (5) OF THIS SECTION IS UNABLE TO DETERMINE THAT THE SIGNATURES MATCH, two other election judges of different

political party affiliations shall simultaneously compare the signatures. If both other election judges agree that the signatures do not match, the county clerk and recorder shall, within two days after election day, send to the eligible elector at the address indicated in the registration records a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector voted, signed the self-affirmation, and returned a ballot to the county clerk and recorder. If the county clerk and recorder receives the form within eight days after election day confirming that the elector voted, signed the self-affirmation, and returned a ballot to the county clerk and recorder and enclosing a copy of the elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector does not enclose a copy of the elector's identification as defined in section 1-1-104 (19.5) along with the form, the self-affirmation on the return envelope shall be categorized as incorrect and the ballot shall not be counted. If the eligible elector returns the form indicating that the elector did not vote, sign the self-affirmation, or return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and the county clerk and recorder shall send copies of the eligible elector's signature on the return envelope and the signature on file with the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM to the district attorney for investigation.

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

(3) If the election judge determines that the signature of an eligible elector on the self-affirmation matches the elector's signature on file with the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, the election judge shall follow the procedures specified in ~~part 3 of this article pertaining to the~~ SECTION 1-8-304 CONCERNING THE

QUALIFICATION AND counting of mail-in ballots.

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

(5) (a) A DESIGNATED ELECTION OFFICIAL MAY ALLOW AN ELECTION JUDGE TO USE A SIGNATURE VERIFICATION DEVICE TO COMPARE THE SIGNATURE ON THE SELF-AFFIRMATION ON THE RETURN ENVELOPE OF AN ELIGIBLE ELECTOR'S MAIL-IN BALLOT WITH THE SIGNATURE OF THE ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM IN ACCORDANCE WITH THIS SUBSECTION (5) AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5).

(b) IF A SIGNATURE VERIFICATION DEVICE DETERMINES THAT THE SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN ELIGIBLE ELECTOR'S MAIL-IN BALLOT MATCHES THE SIGNATURE OF THE ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, THE SIGNATURE ON THE SELF-AFFIRMATION IS DEEMED TO MEET THE REQUIREMENT OF SECTION 1-8-304 (1) (b) (III), AND THE ELECTION JUDGE SHALL FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-8-304 CONCERNING THE QUALIFICATION AND COUNTING OF MAIL-IN BALLOTS. IF A SIGNATURE VERIFICATION DEVICE IS UNABLE TO DETERMINE THAT THE SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN ELIGIBLE ELECTOR'S MAIL-IN BALLOT MATCHES THE SIGNATURE OF THE ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM, AN ELECTION JUDGE SHALL COMPARE THE SIGNATURES IN ACCORDANCE WITH SUBSECTIONS (2), (3), AND (4) OF THIS SECTION.

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

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

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

(1) (a) Before opening any mail-in ballot, one of the receiving judges, in the presence of a majority of the receiving judges, shall inspect the self-affirmation on the return envelope. ~~and, in an election coordinated by the county clerk and recorder, compare the signature on the self-affirmation with the signature of the eligible elector on file in the county clerk and recorder's office.~~

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

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

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

SECTION 9. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO