

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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
State, Veterans & Military Affairs

SENATE
3rd Reading Unam ended
March 28, 2008

SENATE
2nd Reading Unam ended
March 26, 2008

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.**

HOUSE
3rd Reading Unam ended
February 12, 2008

HOUSE
Am ended 2nd Reading
February 11, 2008

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 OR** 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~~ OR 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~~ OR 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 OR 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 OR 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 OR 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 ON
26 FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE
27 VOTER REGISTRATION SYSTEM IN ACCORDANCE WITH THIS SUBSECTION (5)

1 AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO
2 SECTION 1-8-114.5 (5) (c).

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

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

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

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

27 **1-7.5-107. Procedures for conducting mail ballot election -**

1 **first-time voters casting a mail ballot after having registered by mail**
2 **to vote.** (5) (c) For November coordinated elections only, the signature
3 of the eligible elector on the return envelope shall be compared with the
4 signature of the eligible elector on file in the office of the county clerk
5 and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM in
6 accordance with section 1-7.5-107.3.

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

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

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

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

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

1 ~~recorder's database.~~

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 that
4 eligible elector on file with the county clerk and recorder OR 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 voted, signed the
15 self-affirmation, and returned a ballot to the county clerk and recorder. If
16 the county clerk and recorder receives the form within eight days after
17 election day confirming that the elector voted, signed the self-affirmation,
18 and returned a ballot to the county clerk and recorder and enclosing a
19 copy of the elector's identification as defined in section 1-1-104 (19.5),
20 and if the ballot is otherwise valid, the ballot shall be counted. If the
21 eligible elector does not enclose a copy of the elector's identification as
22 defined in section 1-1-104 (19.5) along with the form, the self-affirmation
23 on the return envelope shall be categorized as incorrect and the ballot
24 shall not be counted. If the eligible elector returns the form indicating
25 that the elector did not vote, sign the self-affirmation, or return a ballot to
26 the county clerk and recorder, or if the eligible elector does not return the
27 form within eight days after election day, the self-affirmation on the

1 return envelope shall be categorized as incorrect, the ballot shall not be
2 counted, and the county clerk and recorder shall send copies of the
3 eligible elector's signature on the return envelope and the signature on file
4 with the county clerk and recorder OR IN THE STATEWIDE VOTER
5 REGISTRATION SYSTEM to the district attorney for investigation.

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

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

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

27 (5) (a) A DESIGNATED ELECTION OFFICIAL MAY ALLOW AN

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

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

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

1 BALLOT ELECTIONS PURSUANT TO ARTICLE 7.5 OF THIS TITLE.

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

4 **1-8-304. Preparing to count mail-in ballots - rejections.**

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

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

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

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

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