
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No: AB 1037 **Hearing Date:** 6/20/23
Author: Berman
Version: 4/11/23
Urgency: No **Fiscal:** Yes
Consultant: Scott Matsumoto

Subject: Vote by mail ballots: signature verification.

DIGEST

This bill permits a voter who has a missing signature or a mismatched signature on their vote by mail (VBM) identification envelope to return a completed signature verification statement or unsigned identification envelope statement by electronic means, in addition to those permitted under existing law, if such means are made available by the elections official, as specified.

ANALYSIS

Existing law:

- 1) Provides that provisions of law governing VBM voting shall be liberally construed in favor of the VBM voter.
- 2) Requires a county elections official to mail a ballot to every active registered voter for every election in which the voter is eligible to participate, and provides that the distribution of VBM ballots to registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.
- 3) Authorizes any county, pursuant to the California Voter's Choice Act (CVCA), to conduct elections in which every active registered voter is mailed a ballot and vote centers and ballot drop-off locations are available prior to and on Election Day, in lieu of operating polling places for the election, subject to certain conditions.
- 4) Requires a county elections official, upon receiving a VBM ballot, to compare the signature on the VBM ballot identification envelope with either of the following:
 - a) The signature appearing on the voter's affidavit of registration or any previous affidavit of registration of the voter.
 - b) The signature appearing on a form issued by an elections official that contains the voter's signature and is part of the voter's registration record.
- 5) Requires an elections official, when comparing the signature on the identification envelope, to apply certain presumptions, as specified.

- 6) Provides that if the elections official determines, upon comparing signatures, that the signature possesses multiple, significant, and obvious differing characteristics when compared to all signatures in the voter's registration record, the signature is subject to additional procedures that provide that a signature shall be rejected only if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record.
- 7) Requires a notice sent to a voter who did not sign their VBM ballot identification envelope or whose signature does not compare pursuant to existing law to be sent by first-class mail on or before the next business day following a determination that a voter's signature does not compare, as specified.
- 8) Allows a voter to return their signature verification statement or unsigned identification envelope statement by mail, email, facsimile transmission, or in person at a polling place within the county or to a ballot drop-off box.
- 9) Provides that voter registration information is confidential. Permits voter registration information to be provided to candidates for federal, state or local office, to any ballot measure committee, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes as determined by the Secretary of State (SOS).

This bill:

- 1) Permits a voter who has a missing signature or a mismatched signature on their VBM identification envelope to submit a signature verification statement or unsigned identification envelope statement by electronic means, in addition to those permitted under existing law, if such means are made available by the elections official.
- 2) Requires a local elections official offering electronic means for submission of a statement, other than what is permitted under existing law, to establish appropriate privacy and security protocols that ensure that the information transmitted is received directly and securely by the elections official and is only used for the stated purposes of verifying the signature on the voter's ballot.
- 3) Makes other technical and conforming changes.

BACKGROUND

Signature Cure Process and Previous Legislation. In an effort to reduce the number of rejected VBM ballots, the Legislature has taken a number of steps to modify the signature verification process. In 2015, the Legislature passed and Governor Brown signed AB 477 (Mullin), Chapter 726, Statutes of 2015, which allows a voter who failed to sign their VBM ballot identification envelope to complete, sign, and return by mail or facsimile an unsigned ballot statement up to eight days after the election, as specified, in order to have their ballot counted. In 2017, AB 840 (Quirk), Chapter 820, Statutes of 2017, was signed into law and authorized a voter to submit their completed unsigned ballot statement to the local elections official by email.

SB 759 (McGuire), Chapter 446, Statutes of 2018, created a cure process for a voter whose signature on their VBM ballot identification envelope does not match the signature on file in the voter's registration record, as specified. SB 523 (McGuire), Chapter 568, Statutes of 2019, required counties to notify a voter whose signature was missing on a VBM ballot identification envelope, and aligns the processes for handling unsigned VBM ballot envelopes with the processes for handling VBM ballot envelopes with signatures that do not match the signatures on file in the voter's registration record.

Additionally, last session SB 503 (Becker), Chapter 319, Statutes of 2021 was signed into law to provide clear and uniform statewide signature verification standards to ensure voters' signatures are evaluated consistently across all counties. SB 503 requires various provisions of the SOS's signature verification emergency regulations to be codified into state statute. Specifically, SB 503 requires an elections official, upon receiving a VBM ballot and comparing the voter's signature on the identification envelope with signatures in the voter's registration record, to apply certain presumptions, and provides for a signature to be rejected only if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record, as specified. Additionally, SB 503 requires the SOS, when promulgating regulations pertaining to signature comparison, to consult with elections experts, voter access and advocacy stakeholders, and elections officials, among other provisions.

AB 1037 provides voters with another method to return their completed unsigned identification envelope statement or signature verification statement and allows a voter to submit their completed statement by other electronic means made available by the local elections official.

Other States and Signature Cure Processes. According to the National Conference of State Legislatures, 24 states require election officials to notify voters when there is a missing signature or a signature discrepancy on a voter's VBM ballot return envelope, and require that voters be given an opportunity to correct it.

Notably, Nevada and Colorado have recently adopted an electronic signature cure process, also known as "text to cure" or "TXT2Cure" that allows a voter the option to cure their ballot expeditiously through electronic means. Any voter who has a signature discrepancy is sent a cure notification from their county clerk that includes an affidavit with instructions on how they can return the signed paper affidavit with a photocopy of an acceptable form of identification to their county election office or instructions for voters to use the TXT2Cure system.

Generally, to use a TXT2Cure system, a voter will be provided a link and identification information on the cure letter to login and submit their signature via their smartphone. For example, in order for a Colorado voter to electronically cure their signature they must follow the following steps: 1) Text the word "COLORADO" to the number 28683; 2) Touch the link received in the reply text; 3) Click the "Cure My Ballot" button; 4) Enter the Voter ID number that is provided in the voter's cure letter; 5) When prompted, provide a signature by signing the screen of the mobile phone; 6) When prompted, use the mobile phone's camera to take a picture of an acceptable form of ID; and 7) Click submit. Both Colorado and Nevada have been offering the TXT2Cure systems since 2020. According to a press releases from the Colorado SOS's office, the TXT2Cure

system is designed to reduce the number of ballots rejected due to missing or discrepant signatures, and is especially geared for younger voters who statistically have more ballots with signature discrepancies. Typically, younger voters have fewer signatures on file, and have signatures that are evolving. Through leveraging technology familiar to young people, TXT2Cure helps make sure these younger voters have their ballots counted. Additionally, voters may be more inclined to quickly go online and submit their signature, as opposed to mailing, faxing, or emailing the signed cure letter

Vote by Mail Ballots and Previous Legislation. In 2001, the Legislature approved and Governor Davis signed AB 1520 (Shelley), Chapter 922, Statutes of 2001, which, among other provisions, authorized any voter to become a permanent VBM voter. As a result, California voters have increasingly used VBM ballots to vote in elections.

In 2016, SB 450 (Allen), Chapter 832, Statutes of 2016, enacted the CVCA, which permits counties to conduct elections in which all voters are mailed ballots, and voters have the opportunity to vote on those ballots or to vote in person at a vote center for a period of 11 days, including Election Day. In 2018, five counties (Madera, Napa, Nevada, Sacramento, and San Mateo) conducted elections under this system.

In 2020, fifteen counties chose to conduct elections pursuant to the CVCA (Amador, Butte, Calaveras, El Dorado, Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, San Mateo, Santa Clara, and Tuolumne). According to the SOS's website, as of last year, an additional twelve counties have adopted the CVCA election model for a total of 27 counties.

Elections, COVID-19, and Previous Legislation. Due to concerns that conducting in-person voting during the spread of COVID-19 could threaten the health and safety of voters, election workers, and the public generally, the Legislature approved and Governor Newsom signed bills that made significant changes to the way that the state conducted the November 2020 presidential general election. Those changes largely were enacted through two bills—AB 860 (Berman), Chapter 4, Statutes of 2020 and SB 423 (Umberg), Chapter 31, Statutes of 2020. Notably, those bills required that a mail ballot be sent to every active registered voter, provided voters in all counties with the ability to track their ballot, authorized changes to in-person voting requirements, and made other changes to facilitate the expected surge in voting by mail at the November election.

In February 2021, SB 29 (Umberg), Chapter 3, Statutes of 2021, was signed into law and continued the practice of requiring county elections officials to mail a ballot to every active registered voter for all elections proclaimed or conducted prior to January 1, 2022. Subsequently, in September 2021, AB 37 (Berman), Chapter 312, Statutes of 2021, was signed into law which permanently requires an elections official to send every active voter a VBM ballot for each election in which they are eligible to vote, among other provisions.

Vote by Mail Ballot Rejection Studies. In September 2020, the California Voter Foundation in collaboration with the University of Southern California (USC) Center for Inclusive Democracy examined demographic and voting methods of voters in Sacramento, Santa Clara, and San Mateo counties whose November 2018 VBM ballots

were rejected and the reasons for the rejection. The study found that the top three reasons a VBM ballot was rejected were late arrivals of VBM ballots, missing signatures on VBM ballot identification envelopes, and signatures that did not sufficiently match the voter registration signatures on file.

In a 2021 study, the USC Center for Inclusive Democracy found that of all the VBM ballots cast (both counted and rejected) in California, 0.5% (80,363 ballots) were rejected in the 2020 general election. Latinos, young voters, new voters, and previous polling place voters had higher rates of VBM ballot rejections than the general population. Asian-American voters had similar rejection rates as the general population.

According to the study, in the 2020 general election, the majority (76.8%) of rejected VBM ballots were not counted due to signature issues. Over 59% (47,785 ballots) of all rejected VBM ballots in California had non-matching signatures and 17.3% (13,913 ballots) had missing signatures. Another 16.1% (12,969 ballots) of rejected VBM ballots were rejected for arriving late and 7.1% (5,696 ballots) were rejected for other reasons. Key takeaways from the report state that Latino and previous polling place voters had higher rates of non-matching signatures than the general population. Asian-American voters had higher rates of missing signatures than the general population. Young voters (aged 18 to 24) had higher rates of non-matching signatures than older voters (aged 65 and over), while older voters had higher rates of late VBM ballots than young voters. Foreign-born voters had higher rates of missing signatures than U.S.-born voters, while U.S.-born voters had higher rates of late and non-matching signatures.

Mail Ballot Usage. According to official election results compiled by the SOS, California voters are increasingly choosing to vote using a ballot sent to them instead of voting in-person. The chart below shows historical use of VBM ballots in statewide elections since 2016. The results show a steady increase in the use of VBM ballots even before policy changes were made to send every eligible voter a ballot. That trend has continued after those policy changes were implemented.

Year	Statewide Election	Total Ballots Cast	VBM Ballots Cast	%	In-Person Ballots Cast	%
2016	Primary	8,548,301	5,036,262	58.92%	3,512,039	41.08%
	General	14,610,509	8,443,594	57.79%	6,166,915	42.21%
2018	Primary	7,141,987	4,834,975	67.70%	2,307,021	32.30%
	General	12,712,542	8,302,488	65.31%	4,410,054	34.69%
2020	Primary	9,687,076	6,982,750	72.08%	2,704,326	27.92%
	General	17,785,151	15,423,301	86.72%	2,361,850	13.28%
2021	Special	12,892,578	11,733,429	91.01%	1,159,149	8.99%
2022	Primary	7,285,230	6,647,212	91.24%	638,018	8.76%
	General	11,146,610	9,755,188	87.52%	1,391,422	12.48%

COMMENTS

- 1) According to the author: California has been unwavering in our commitment to expand and protect ballot access. We've taken steps to make registration simpler, make ballot language more accessible, increase access to ballot drop boxes, and send a vote by mail ballot to every active registered voter and provide a means to track your ballot. Yet far too many ballots go uncounted due to mismatched or missing signatures and a process that can be improved. AB 1037 takes one more step to modernize and simplify voting by authorizing election officials to use electronic means to cure missing or mismatched ballot signatures. Incorporating this option can provide greater efficiency and further meet the needs of voters.
- 2) Argument in Support. In a letter sponsoring AB 1037, the League of Women Voters of California stated, in part, the following:

AB 1037 recognizes that there are more modern and efficient electronic means for elections officials to receive signature verification and unsigned identification envelope statements. The legislation would shorten the time delay in returning corrections, address voters who may not be able to use one of the current mechanisms due to physical disabilities or other reasons, and streamline the process overall. In all, more voters would be able to ensure their ballot can be counted.

RELATED/PRIOR LEGISLATION

AB 1004 (Ta) of 2023 permits a voter whose signature on a state, county, city, or district initiative, referendum, or recall petition is invalidated by an elections official to submit a signature verification statement to verify the voter's signature, as specified. AB 1004 was held on the Assembly Committee on Appropriations' Suspense File.

AB 477 (Mullin), Chapter 726, Statutes of 2015, allowed a voter who failed to sign their VBM ballot identification envelope to complete, sign, and return by mail or facsimile an unsigned ballot statement up to eight days after the election in order to have their ballot counted, as specified.

AB 840 (Quirk), Chapter 820, Statutes of 2017, authorized a voter to submit their completed unsigned ballot statement to the local elections official by email.

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SB 523 (McGuire), Chapter 568, Statutes of 2019, required counties to notify a voter whose signature was missing on a VBM ballot identification envelope, and aligns the processes for handling unsigned VBM ballot envelopes with the processes for handling VBM ballot envelopes with signatures that do not match the signatures on file in the voter's registration record.

SB 503 (Becker), Chapter 319, Statutes of 2021 provided additional clarity and uniform statewide signature verification standards to ensure voters' signatures are evaluated consistently across all counties.

PRIOR ACTION

Assembly Floor:	61 - 16
Assembly Appropriations Committee:	12 - 3
Assembly Elections Committee:	6 - 2

POSITIONS

Sponsor: California Association of Clerks and Election Officials

Support: County of Los Angeles
Disability Rights California
League of Women Voters of California

Oppose: None received

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