

Vermont Secretary of State

Elections Division

Report Requested Under Section 21a of Act 60 (2021)

February 6, 2023

Issues related to implementing universal vote-by-mail for municipal and primary elections; and the impact expanding vote-by-mail would have on:

- (A) access to voting among those who have historically been disenfranchised and populations that have historically had low voter turnout;**
- (B) public satisfaction with the voting process;**
- (C) the administration of elections; and**

Implementing a voter verification system in Vermont that will not disenfranchise voters and that will verify that ballots have been voted by registered voters, including a report back on the time, training and cost involved in implementing the system or systems.

EXECUTIVE SUMMARY

The Secretary of State's office (SOS) is a strong supporter of the policy known as "vote-by-mail". A primary mission of the SOS is to increase Vermonters' participation in elections by making voting easy, accessible, and convenient. The "vote-by-mail" system, whereby a ballot for an election is mailed proactively to all active registered voters, serves all of those goals. However, it is the opinion of the SOS that applying the vote-by-mail system to the August Primary election is not feasible unless Vermont first transitions to a system where voters are required to identify their party preference in their voter registration record (to "register by party"). The SOS is willing to engage in, and would encourage, a discussion on how to modify the process for the Primary election, to arrive at a system where a single ballot can be sent to each voter according to their preference. With regards to municipal elections, it is the opinion of the SOS that the current law allowing the legislative bodies of towns, cities, and villages to elect to adopt to this policy (and school districts for annual meetings with the agreement of the member towns) is the appropriate scope of this policy at this time. Any expansion of the vote-by-mail system to additional municipalities would require significant forethought, investment, and legislative action across both the election law, the municipal law in Title 24, and the school law in Title 16. Finally, with regards to a voter verification process for the return of early/absentee ballots, research shows signature matching to be an unreliable, subjective procedure that is much more likely to disenfranchise qualified, legitimate voters than it is to prevent fraud, which is exceedingly rare. It would require a massive amount of ongoing training and investment and would represent a significant additional burden on our town and city clerks and other local election officials. We are confident in the current systems to verify voter identities upon registration and confirm eligibility, and we believe the penalties for voter impersonation and perjury are sufficient to discourage any fraudulent submission of voted ballots.

SECTION 1: Issues related to implementing universal vote-by-mail for municipal and primary elections

Current Status of “Vote-by-Mail” in Vermont

The Secretary of State’s office (SOS) is a strong supporter of the policy known as “vote-by-mail”. “Vote-by-mail” is the commonly used term for the process of proactively mailing the ballot to be voted on in an election to all active registered voters qualified to vote in the election without the voter having to submit a request for the ballot. Vermont has long allowed for early voting and has mailed ballots to voters upon request to facilitate that, but only recently have we adopted the practice of mailing ballots out proactively to all voters without the voter submitting a request.

Currently, “vote-by-mail” is only mandated by law to be used in each November General Election. See [17 V.S.A. § 2537a](#). Ballots were mailed to all active registered voters for the first time in the 2020 General Election, pursuant to emergency legislation enacted during the COVID-19 pandemic, in an effort to minimize the number of voters that would come in-person to the polls that November. The following year, in 2021, the legislature enacted [Act 60](#), and applied the “vote-by-mail” system permanently to all General Elections going forward.

The 2020 General Election saw the highest voter turnout ever recorded in Vermont with more than 73% of the voters participating, and 75% of those doing so by voting early. The 2022 General Election saw 57% of voters participating and 65% of those doing so by voting early. A primary mission of the Secretary of State’s Office is to increase Vermont’s participation in elections by making voting easy, accessible, and convenient for as many Vermonters as possible. At least in the context of the past two General Elections, it is difficult to conclude anything else other than the fact that the “vote-by-mail” system increases voter turnout by making it easier and more convenient for qualified Vermonters to cast their ballots.

As is often the case with election administration, and with all considerations of putting good policy in place on the ground, certain policies and processes work very well in some contexts but cannot be applied universally to other contexts because of administrative challenges and other considerations that may ultimately outweigh and negate the intended positive outcomes. There are policies that work well some of the time but cannot be applied universally. “Vote-by-mail” is a prime example of this. While it has proven to work very well for our November General Elections, there are serious concerns and legitimate reasons why the process cannot be applied universally to local elections, or to the statewide Primary election as it is currently conducted.

August Primary

The Committees requested that the SOS report on the “. . . issues related to implementing universal vote-by-mail for . . . primary elections.”

Simply put, a “vote-by-mail” system of mailing ballots proactively to every active registered voter in Vermont for the Primary election is not feasible unless Vermont transitions to a system where voters are required to identify their party preference in their voter registration record (to “register by party”).

Even as it is currently conducted, the statewide Primary already is inherently inefficient and wasteful in its use of taxpayer dollars. Because voters in Vermont do not register by party, and because voters are not required to request which of the three major party ballots they would like to receive and vote, every

voter that participates in the Primary election, whether by voting early or on the day of election, is given all three ballots. The voter, however, is only allowed to vote on one of those ballots, and the remaining two are returned unused and disposed of by the clerk. This means that the Secretary of State’s office must print enough ballots for each of the three major parties to account for the highest turnout that may occur in any one of those three primaries.

Turnout in the previous two Primary elections has been as follows:

2020 Primary		2022 Primary	
Registered voters	490,018	Registered voters	500,692
Dem votes cast	109,365	Dem votes cast	102,408
Prog votes cast	941	Prog votes cast	610
Republican votes cast	58,626	Republican votes cast	30,560
Absentee votes counted	123,301	Absentee votes counted	51,243
Total votes counted	168,932	Total votes counted	133,578

Because all three ballots must be sent to every voter, the SOS must print enough ballots to account for the highest turnout among the three parties. The office always then prints an additional number of ballots beyond this total to ensure that there are sufficient ballots. For example, in preparing for the 2024 Primary, based on the Democratic party turnout numbers from 2022, the office would likely print at least 130,000 ballots for each of the three parties.

What this means is that 130,000 Progressive and Republican party Primary ballots will be printed, while only 610 of those ballots were ultimately cast in 2022 in the Progressive Primary, and only 30,560 were cast in the Republican Primary. The waste and inefficiency in this system is apparent on its face.

The SOS office is highly supportive of and would welcome a discussion of how to modify the conduct of the Primary election to address this issue. If voters were required to register by party, and that is the Primary ballot they would receive, or if voters were required to indicate which ballot they wanted as part of their request, the SoS would only be required to print as many ballots for each Primary as it anticipated would be requested for that Party, significantly reducing the number of ballots being printed but going unused.

However, the substance of this report is simply whether a vote-by-mail system should be applied to the Primary as it is currently operated. If that were the case, the SOS would be required to print a ballot for each major party, for every active registered voter in Vermont – somewhere around 450,000 ballots for each major party. This would enable all three ballots to be sent to every active registered voter. Returning to the numbers above, that would essentially mean more than three times the printed but unused ballots that are currently required. Additionally, the necessity to send all three ballots, and for the voter to return those that are unused, means the printing of 450,000 additional envelopes, the “unused ballot envelopes” for those voters to return their unused ballots. It also means additional postage costs due to the added weight in the mailing of three ballots instead of one, and an additional return envelope.

Currently, postage costs to send early ballots for the Primary are borne by the towns. If a “vote-by-mail” system was mandated for the Primary, we assume the SOS would be responsible for conducting the

mailing and paying for the postage costs, as the law requires now for the General Election. Using a vendor to appropriately sort and assemble the mailing packages for all 450,000 voters also entails significant additional costs. An examination of the current costs for printing ballots for the Primary and delivering them to the clerks, compared to the costs that would be incurred for the SOS to conduct a statewide mailing of these ballots, reveals the following approximate increase in costs for the state:

Ballots:	
New ballot costs	\$376,099
Current ballot costs	\$200,149
Envelopes:	
New envelope costs	\$300,300
Current envelope costs	\$29,753
Sorting:	
New sorting costs	\$203,572
Current sorting costs	\$0

Postage:	
New postage costs	\$497,616
Current postage costs	\$0
Other mailing costs:	
New other costs	\$66,133
Current other costs	\$42,589
Grand totals:	
New costs	\$1,443,720
Current costs	\$272,491

Increase in costs for mailing primary election ballots to all registered voters = + \$1,171,229

Although these numbers are estimates based on the costs incurred by the SOS for the most recent ballot mailing for the 2022 General Election, it is safe to say that performing a statewide mailing of ballots for the Primary would incur approximately an additional \$1 million in costs to the state for every Primary election.

In light of the extreme inefficiency of mailing one of each party’s Primary ballot to every active voter, and the substantial additional costs to the state to perform such a mailing, the SOS feels strongly that it would not be sensible policy to apply a vote-by-mail system to the August Primary as it is currently conducted.

Finally, it should be kept in mind as this is considered what the Primary “election” actually is. It is not, in fact, an election. It is a nominating process for each major party – the process by which the voters of that party choose the candidates that they wish to appear on the General Election ballot. The state essentially subsidizes this process for the parties, and the parties rely on the SOS and the town and city clerks across the state to conduct this nominating process for them. While the SOS understands the reasons for this model, and it is not uncommon across the country, it is important to remember this larger context when deciding how many resources – time, human, and monetary – that the state and the election officials in the towns and cities are asked to commit toward this process of selecting candidates for each major party to appear on the ballot.

August Primary Conclusion

The SOS is willing to engage in, and would encourage, a discussion on how to modify the process for the Primary election, to arrive at a system where only the necessary number of ballots for each party must be printed, and where a single ballot can be sent to each voter according to their preference of which Primary they would like to participate in. When and if we arrive at such a system for the Primary, the SOS will welcome a discussion of whether a vote-by-mail system would make sense and be a benefit to Vermont voters.

Municipal Elections

The Committees additionally requested that the SOS report on the “. . . issues related to implementing universal vote-by-mail for municipal . . . elections.”

To begin, if the “vote-by mail” system were to be made mandatory for all local elections, the traditional floor vote Town Meeting as we know it in Vermont would be no more. Alternatively, if the current permissive approach were to be expanded to allow a broader range of municipalities to opt to use the vote-by-mail system, this would put an undue burden on our town and city clerks and other local election officials, until other reforms and investments are made to the infrastructure of local election administration. At the same time, it would cause confusion among voters that could have the unintended and contradictory consequence of reducing turnout in local elections.

If the mailing of ballots to all active registered voters were to be made mandatory for all local elections, that would mean that all annual and special meetings would have to be conducted under an Australian ballot model, where ballots are preprinted in advance of the election in order to be mailed to all voters. In so doing, a traditional “floor meeting”, a Town Meeting tradition still used in some communities for either all or part of the items voted on at local elections, would be replaced by the Australian ballot method of voting. Because we do not think this is an option being seriously considered at this time, we will not spend more time on that analysis until any such proposal is in front of the legislature.

Rather than a mandate applying to all local elections, it has also been suggested that the current model – allowing the legislative body in certain types of municipalities to decide on its own whether to mail local election ballots to all voters – should be expanded to all forms of municipalities in Vermont, rather than the limited set of those that the current law allows to make this decision.

It is the opinion of the SOS that the current scope of municipalities that are allowed to opt to mail a ballot to all voters is the appropriate one. Under the current law, the legislative body of a town, city, or village may vote to mail a ballot proactively to all their voters. School districts are also allowed to do so for annual meetings only, but only after receiving the approval of all the legislative bodies from the towns or cities within the district. The reason for this approach is to ensure that the election officials that are asked to administer those elections in the member towns are in the position to do so, and to allow the individual towns to align the voting process for their town meeting with that of the school district in order to provide consistency in the manner of voting across all elections taking place in each town or city.

It is critical to remember that, even when conducted on the same day, elections for a school district are distinct from elections for a town or city, and these both are distinct from elections for any other district such as a fire, wastewater, or solid waste district. For instance, a voter may choose to participate in the town election but may not be eligible for the fire district election that is occurring in part of the town. As a result of the school district consolidation bill, there are now more union school districts which encompass multiple towns. Previously, when most towns had town school districts, meetings were largely conducted the same way between the two districts. Now, a town may vote from the floor on their town business, but the new multitown school district uses Australian ballot and the town needs to have a ballot and a polling place ready for the school district vote. Moreover, union school district ballots are almost always required to be commingled, meaning a separate ballot from the town must be created, and coordination regarding the commingling and counting process must take place between the member towns.

In the case of school districts, and the other municipal districts such as fire, water, or waste districts, there is typically not the same infrastructure in place to run an election. There may be a clerk of those municipalities, but that person is not always versed in administering an election, especially one involving multiple different towns. Voter checklists for the district must be collected from the towns, preparation of a ballot may not be within their expertise, and there is not an equivalent body to the Board of Civil Authority that is there to assist with early or absentee voting or to conduct the counting of ballots and processing of results. These large union districts have relied on assistance from the election officials in the member towns to administer their elections, with one of the town clerks in the district often serving as the school district clerk and facilitating those elections across the member towns. As a result, the burden of running a school district or other municipal district election typically falls on the clerks in the member towns, requiring them to administer that process simultaneously with their own town elections.

For each of these distinct municipal elections, across all the member towns in each of these municipalities, voters must be treated equally. They must all vote on the items in question either from the floor, or by ballot. They must all either be mailed a ballot or be required to request one. If municipal districts encompassing more than one town are allowed to elect to mail ballots to all voters, the ballots must be mailed to voters in all towns in the district. Most annual meetings across the state for the various types of districts take place on the same day – the first Tuesday in March. A school district covering eight towns could vote to mail a ballot to all their voters, but among the towns in the district, some may be mailing their annual meeting ballot to all voters for the town, and some may not. Some may conduct their town’s annual meeting from the floor. The result is that voters in those towns might be mailed the school district ballot, but must request the town ballot, or go in person to the floor meeting to vote on the town issues. This causes significant voter confusion, not knowing which ballot they may receive without making a request, and which they must request. Even with the requirement for school districts to receive the permission of all member towns, this has already been an issue in annual meetings conducted since the passage of Act 60, which allowed school districts to make this choice.

Simply put, allowing these multi town districts to elect to mail a ballot to all voters results in one of two outcomes – either the town clerks and local election officials are asked to conduct a separate distinct Australian ballot election for these districts on top of their responsibilities for their own town’s election, or the district staff would have to be asked to conduct the ballot election, something which they generally do not have the experience, expertise, time, or resources to accomplish. In either case, the voters in those towns would still be asked to sort out the voting method among the various elections occurring in their town and keep track of which ballots they will receive automatically, which they have to request, and which items they may need to appear in person to vote for.

On top of the voter confusion that this causes, administering an Australian ballot election for these multi-town districts, especially one where a ballot is required to be sent to all voters, can be a significant, unreasonable burden on the clerks and other local election officials. In 2019, at least 73 towns used a floor vote meeting to conduct some business on Town Meeting Day. If these towns are part of a multi-town district that were allowed to vote to mail a ballot to all voters, the clerks in these towns would be asked to conduct an entire Australian ballot election – mailing and receiving the district ballot to all voters in their town and conducting a polling place for that ballot vote on the annual meeting date – all on top of their responsibility to hold a floor meeting for the town vote. When the polls close on election night, they are then asked to coordinate the commingling and counting of the district ballots with the assistance of their local BCA members.

In the case of a single town, city, or village, the legislative body can communicate with their single clerk who will be responsible for conducting the mailing and ensure this is feasible. The clerk has access to the resources and knowledge necessary to administer the mailing, receive and count the ballots, and conduct a polling place on the day of the election with the assistance of the BCA. All voters within that single municipality will be treated the same and have the same opportunity to participate – they will either be proactively mailed a ballot for that election, or they will have to request one. Voter confusion is minimal. This is why the current approach – allowing only towns, cities, and villages conducting their own distinct annual or special meeting to vote to mail a ballot to all their active registered voters – does not raise the same concerns regarding voter confusion and administration of the election as it would if larger multi-town districts were allowed to do the same.

In the case of a school district encompassing more than one town, by requiring the approval of the legislative body in each town, that legislative body can communicate with the clerk about the feasibility of doing so. Even more importantly, the legislative body in each town can coordinate whether the ballot for the town election will also be mailed, reducing the risk of voters in a single town having to request the ballot for their town meeting, while being mailed a ballot for the school election, or vice versa. Finally, the counting process can be anticipated and planned for – coordinating the commingling of ballots from across the towns in a manner that ensures a fair and accurate count. Still, even with the requirement to receive the approval of the member towns, since the passage of Act 60 allowing school districts to exercise this option, there have been cases where this has resulted in voters in a single town being mailed a ballot proactively for the school election, but not for the town election, or vice versa, creating significant confusion for voters.

As was stated in the introduction to this report, the SOS is a strong supporter of the vote-by-mail policy and believes there is no question that it results in higher voter turnout, which is central to our mission and a goal that we think most Vermonters, of all political persuasions, share. As such, we would offer the following options to consider in any attempt to expand the use of the vote-by-mail system to additional local elections.

- The policy could be made mandatory for all local elections. This would eliminate the risk of voter confusion, as voters would simply know that they would all receive the ballots for each local election in which they are a voter. This option has many downsides, however. One, the cost would be substantial, and would either be borne by the districts, or the state. Two, it would eliminate the conduct of floor meetings (traditional “town meeting”) in those communities where they still occur. Three, it would require either the town clerks to take on a significant additional

burden in running local elections, to the point where it would be advisable for most towns and cities to have a distinct clerk that is solely responsible for election administration or putting the human and financial resources in place in these other districts to administer a vote-by-mail election. For all these reasons, this option does not seem feasible or realistic at this time.

- Municipal districts that encompass more than one town could be required to receive the approval of the legislative bodies of the member towns, and those member towns could only approve the mailing of ballots by the district if they opted to also mail the ballots of their own individual town. This would eliminate or at least reduce voter confusion but would not address the issue of the burden on town clerks of running additional Australian ballot elections for the districts.
- Municipal districts could be allowed to elect to mail ballots to all voters, but only if they receive the permission of the member towns, which could only be given if the member towns also mailed their town ballots to all voters (as in the option above), and if the district staff was responsible for running the election – meaning conducting the mailing and receipt of ballots (voters would need to know to return their ballots to the district office instead of the clerks), conducting the polling place on the day of the election, and supervising/conducting the count of the ballots and reporting of results. This option would address many of the primary concerns of voter confusion and burden on the town clerks but would involve significant investment in and training for school district staff for them to take on this responsibility.

Municipal Elections Conclusion

This analysis is not meant to convey that the expansion of the vote-by-mail policy to additional local elections across the various types of municipalities in the state is impossible or should never happen. It is simply offered to communicate the significant forethought, investment, and legislative action across both the election law, the municipal law in Title 24, and the school law in Title 16 before this policy could be expanded. It is the opinion of the SOS that the provisions in Act 60 allowing the legislative bodies of towns, cities, and villages to elect to adopt to this policy (and school districts for annual meetings with the agreement of the member towns) is the appropriate scope of this policy at this time.

SECTION 2: implementing a voter verification system in Vermont that will not disenfranchise voters and that will verify that ballots have been voted by registered voters, including a report back on the time, training and cost involved in implementing the system or systems.

While there are a variety of voter verification measures used across the country, including providing a witness signature, signature matching, and providing photocopy of an ID, the most commonly used method among the majority of states is signature matching. Vermont is not among the states that currently perform signature matching for verification, although Vermont does already require the voter to sign their ballot envelope, and in doing so, attest to the truth of the information on the certification under penalty of perjury. For the purposes of this analysis, we will focus on the use of signature matching as a potential verification system for Vermont, since it is the most commonly used in other states. If we are presented with other proposed methods of voter verification, we are happy to do the research into those.

First, it is important to understand the signature verification system and how it typically works. In theory, the process is simple: confirm whether the signature on the voter's ballot matches the signature in their voter registration record. When doing so for a small volume of absentee ballots, this is a manageable process, but if dealing with tens of thousands, the process has the potential to create bottlenecks in the entire voting process and delay the count of ballots. With Vermont having seen very high turnout for early and absentee voting in the last 2 general elections (75% of the ballots cast in 2020, and 65% in 2022¹), encouraged more so by the automatic mailing of ballots to all registered voters, this is a concern that should be carefully considered.

Signature verification requires a tiered system of review, to ensure that a voter's signature is not rejected on a single pass, and to ensure integrity of the process. During each step, there may be several "signature judges" or "reviewers" working on a panel together to vet the signatures. This might include town and city clerks, BCA members, and other local elections officials. In the first review, the reviewer is looking for a perfect match, they reject everything else. The rejected ballots go to a second review, where reviewers take a closer look and will employ various techniques learned to help determine whether to accept or reject the signature. This would be more time consuming than the first review, estimated at about 30 seconds per signature². Signatures that are rejected in the first and second review go onto a third and final review. Reviewers here will spend up to 3 minutes per signature in a much more painstaking process to determine the authenticity of the signature³. The last step of the process is to notify voters whose signature was rejected and provide them with the option to "cure" their ballot. This involves sending a letter and blank affidavit describing the reason their ballot is not being counted and ways they can remedy the situation. The voter must return the signed affidavit with a form of valid identification. Those documents will then need to be reviewed, and the ballot retrieved and processed, or rejected if something was missing.

It is important to remember that, in most states that employ a vote-by-mail system, ballots are returned by voters to central processing centers. These central processing centers are where this signature verification process is conducted, by trained election officials using software and hardware that expedite the process. In Vermont, voters still return their ballots to the 247 individual town and city clerk's office, meaning the process must be conducted in each of those offices by town clerks, BCA members, and other local election officials that would have to be continuously trained to do so. The SOS does not support or recommend moving to a system of central processing of absentee ballots at this time.

In some cases, software is used to automate and expedite this process, but it should not be relied on for the entire process, only the first review. It is important for a human to review the signatures to ensure they were justly rejected. Implementing automatic signature verification would require either major reform to our ballot return process, whereby ballots would be shipped to a central processing location with a high-volume sorting and scanning machine or deploying such equipment (at least to the largest towns and cities) and software to all municipalities to perform the sorting, scanning, and verification

¹ "Election Results," Vermont Secretary of State's Office, Accessed February 2, 2023, <https://sos.vermont.gov/elections/election-info-resources/elections-results-data>.

² "Signature Verification and Cure Process," Cybersecurity and Infrastructure Security Agency (CISA), Accessed February 2, 2023, https://www.cisa.gov/sites/default/files/publications/signature-verification_cure_process_final_508.pdf.

³ Ibid.

there, prior to counting their ballots. It may require significant changes to the current process and could be extremely costly for Vermont.

Election officials in Colorado have stated that signature verification creates bottlenecks in the whole election process as officials are often waiting for the signature reviewers to complete verification of the signatures before they can start counting ballots. This demand puts a lot of stress on the reviewers. Officials have also noted the difficulty in retaining reviewers as they become burnt out. In Vermont, we have seen very high turnover among town and city clerks already and adding this responsibility could further exacerbate that. While Colorado uses automated software for the first review, they explained that the software is not perfect, and when reviewed by a human, still, it will not be 100% accurate, especially if there are a limited number of signatures on file to compare against⁴.

Signature matching requires numerous comparable signatures to be effective. This raises the question of what other signatures will the clerks have to review for comparison? Would they have to look at property tax checks, dog licenses, business applications, zoning applications, etc., to try and validate a voter's signature? In many cases, any or all of these documents may not be on file for all registered voters. Requiring our town clerks, assistant clerks, and election officials to become handwriting experts would represent another top-down mandate that will put undue stress and burden onto our local municipalities.

Implementing a comprehensive training program would be absolutely necessary. However, even with the most comprehensive and expert training, election officials are not trained forensic scientists or handwriting experts, and research suggests that non-experts are prone to deciding in error that authentic signatures do not match signatures on file.

For example, in one study, laypersons were asked to determine the authenticity of a signature and were provided with 6 authentic reference signatures to compare to. The study found that they mistakenly declared authentic signatures to be inauthentic at least 26% of the time and declared forged signatures to be authentic 6% of the time, showing that, even with a sample of several signatures to compare to, people are more likely to incorrectly invalidate signatures from the same person than to incorrectly validate signatures from different people⁵.

Proof of this can be found in Colorado's cure numbers during the 2020 general election. In that election, Colorado election officials rejected 22,000 ballots due to non-matching signatures⁶. Another 11,000 ballots were rejected but cured by the voter. Because they were able to be cured, this indicates at least 11,000 were wrongfully rejected. In a lawsuit filed against the Colorado Secretary of State, plaintiffs argued that most, if not all, of the 22,000 rejected votes were wrongfully rejected as well (*Vet Voice Foundation v. Griswold, 2022*).

⁴ Ben Markus. "Uncounted Votes In Colorado: Diverse Areas And Younger Voters More Likely To Have Ballots Rejected," *Colorado Public Radio News*, October 8, 2020, <https://www.cpr.org/2020/10/08/colorado-vote-by-mail-ballots-rejected-signatures>

⁵ Kam M, Gummadidala K, Fielding G, Conn R, "Signature authentication by forensic document examiners," *Journal of Forensic Science*, 2001 Jul;46(4):884-8, PMID: 11451071.

⁶ Ben Markus. "How Colorado executes its signature-match requirement for ballots disenfranchises many voters, a lawsuit claims," *Colorado Public Radio News*, December 6, 2022, <https://www.cpr.org/2022/12/06/colorado-signature-ballot-voting-lawsuit>

In a similar lawsuit filed in Ohio, a political scientist working on behalf of the plaintiffs found that 97% of the rejected signatures were likely to be authentic. This would equate to 32 valid ballots being thrown out for every invalid ballot (*League of Women Voters v Larose, 2020*).

Nationally, non-matching signatures are the # 1 reason for ballot rejections, making up 27.5% of all ballot rejections in 2016⁷, and 32.8% in 2020⁸. The predominance of these rejections is likely due to the many factors that can cause one's signature to vary. For instance, age, illness, injury, medicine, eyesight, alcohol and drugs, pen type, ink type, writing surface, paper quality, even a person's current state of mind can influence their signature. How a person signs their name at the DMV may differ from how they sign their name on a ballot envelope, and signatures can evolve and change over time. Try to sign your name 10 times and see if they are identical, then look at your driver's license – do they all match the signature you had when you signed your driver's license?

Voters who are blind, or have a degenerative disease (e.g., ALS, Parkinson's, etc.) may not always write their signature the same way every time. In fact, several lawsuits that have been filed in numerous states (California, Colorado, Georgia, Michigan, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Washington, etc.), challenging the constitutionality of signature verification policies, included some plaintiffs with disabilities. For example, a voter with ALS in Colorado lawsuit (*Vet Voice Foundation v. Griswold, 2022*) and a blind voter in New Hampshire (*Saucedo v. Gardner, 2018*) both lawfully voted but their votes were not counted because their signatures were not found to be matching, due to their disability, and they were not able to cure their ballots.

Research on mail-in ballots from multiple states, including California, Colorado, Florida, Georgia, and Washington, all show young voters and minorities being consistently disproportionately affected by signature verification as well⁹. The lawsuit against Colorado Secretary of State Jena Griswold, for example, complains that ballots from young voters aged 18-21 were rejected 14 times as often than those from voters over 40, and Black and Hispanic young voters had their ballots rejected 25 times as often as those over 40 (*Vet Voice Foundation v. Griswold, 2022*). Similarly, a lawsuit filed in Washington alleges discrimination against Latino voters due to higher ballot rejection rates¹⁰.

One possible explanation for the higher rejection rates among some racial and ethnic groups may be that certain names are not as easily identified by some signature reviewers. For instance, one might recognize "Bob" and "Dick" to be common nicknames of "Robert" and "Richard," but fail to identify "Lalo" as a diminutive of "Eduardo" or "Chuy" as a nickname for "Jesús" and reject the signature because of it. Young voters have less familiarity with the voting process, and their signature and handwriting is still evolving, which might explain their higher rejection rates.

⁷ "The Election Administration and Voting Survey 2016 Comprehensive Report," U.S. Election Assistance Commission, https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf

⁸ "The Election Administration and Voting Survey 2020 Comprehensive Report," U.S. Election Assistance Commission, https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf

⁹ "Evaluating Washington's Ballot Rejection Rates," Office of the Washington State Auditor, February 1, 2022, https://sao.wa.gov/wp-content/uploads/Tabs/PerformanceAudit/PA_Evaluating_WA_Ballot_Rejections_ar-1029711.pdf

¹⁰ Zachariah Bryan, "Thousands of ballots rejected statewide based on signature inconsistencies," *InvestigateWest*, November 1, 2022, <https://www.spokesman.com/stories/2022/nov/01/why-does-washington-state-reject-tens-of-thousands>

In Washington, a detailed statistical analysis was performed on a sample of ballots from the 2020 general election that found great disparities in rejection rates for certain groups of voters, young and minority voters in particular, but it did not identify those disparities being caused by any intentional bias.¹¹ The procedure had been followed correctly. This might suggest that the signature verification system is inherently flawed, creating disparities for certain groups of voters with no discernable remedy.

Furthermore, despite significant efforts to ensure uniformity across the state, Washington – like other states – saw great disparities between jurisdictions, suggesting difficulty in achieving consistency and uniform application of the verification process across the state, and affecting some voters differently based on where they vote. We see this as a significant risk here in Vermont, if the verification process were to take place across all 247 towns. Signature verification is, after all, subjective. The way in which one reviewer judges a signature’s authenticity may vary a great deal from their counterparts across the state. Audits might need to be performed to ensure consistency and identify reviewers that may need additional oversight or training.

Active-duty military personnel and their families who are stationed away from home during an election are also found to be especially vulnerable to disenfranchisement because of the short timeframe for which they can be notified of the rejection and then return the affidavit and supporting documentation to have their ballot counted.

While Vermont can allow military and overseas voters to cure a ballot that is wrongfully rejected for a non-matching signature, there may be no real opportunity to do so in the short timeframe they have, especially if posting their ballot close to election day, and we may see higher numbers of those voters – for whom participating in our elections is already a challenge – being further disenfranchised.

The impetus for implementing such a verification system is often to prevent fraud, but research has shown that fraud is extremely rare and signature verification is more likely to disenfranchise voters than it is to weed out any fraudulent ballots. The Colorado Secretary of State is currently defending a lawsuit in *Vet Voice Foundation v. Griswold*, filed in 2022. The petitioners assert that signature verification is disenfranchising voters and use as evidence the fact that in Colorado, while voters cast 34,941,342 ballots between 2005 to 2022 of those rejected, only 5 (0.00000014%) resulted in convictions related to absentee ballot fraud. However, between 2016 and 2022, a Colorado Public Radio investigation found that over 100,000 ballots were rejected for non-matching signatures – a very large number of ballots rejected for a very low probability that any may be fraudulent¹². As stated in the lawsuit against the Colorado Secretary of State, “Signature verification offers paltry security benefits at enormous costs to voters in part because signatures can and do vary for many reasons.”¹³ Given Vermont has seen only a handful of voter fraud cases over the last 4 election cycles (none of which we recall involving someone signing on behalf of another person), we feel the same way, that the cost is just too great.

¹¹ “Evaluating Washington’s Ballot Rejection Rates,” Office of the Washington State Auditor, February 1, 2022, https://sao.wa.gov/wp-content/uploads/Tabs/PerformanceAudit/PA_Evaluating_WA_Ballot_Rejections_ar-1029711.pdf

¹² Ben Markus. “How Colorado executes its signature-match requirement for ballots disenfranchises many voters, a lawsuit claims,” Colorado Public Radio News, December 6, 2022, <https://www.cpr.org/2022/12/06/colorado-signature-ballot-voting-lawsuit>

¹³ *Vet Voice Foundation v. Griswold* (2022)

Voter Verification Conclusion

The Secretary of State's Office has been working diligently on several fronts to reduce barriers for voters and encourage voter participation. We work hard to assist the municipal clerks and elections officials in efficiently administering elections, reducing their administrative burdens wherever possible. We have made significant progress on these fronts in recent years and continue to advance legislative changes and technological innovation in furtherance of the goals of voter access, ease of election administration, and fair and accurate elections that all Vermonters can trust.

Our research shows signature matching to be an unreliable, subjective procedure that is much more likely to disenfranchise qualified, legitimate voters than it is to weed out fraudulent ballots. Furthermore, its effects are not shared equally among the electorate; the signature matching process disparately impacts young and minority voters, voters with disabilities, and overseas and military voters. Due to this evidence, along with the numerous lawsuits in states that have implemented it, and the lack of additional study and guidance on how to administer the process in an equitable and fair way, the Secretary of State's Office does not support the implementation of signature verification in Vermont. We also believe implementing such a system would be burdensome for the municipal clerks and election officials. We are confident in the current systems to verify voter identities upon registration and confirm eligibility, and we believe the penalties for voter impersonation and perjury are sufficient to discourage the fraudulent submission of voted ballots.