

# Secrecy Sleeves and the “Naked Ballot”

October 8, 2020

Less than two months before the 2020 general election, the Pennsylvania Supreme Court ruled on a technical mail-in ballot requirement that, according to Philadelphia City Commissioner Lisa Deeley, could lead to the rejection of around 100,000 absentee votes. Pennsylvania’s election officials will reject any absentee ballots received without a secrecy sleeve, sometimes known as a “naked ballot.” In other words, election officials can only accept mail-in ballots that are sealed within two distinct envelopes rather than just one. In light of this decision, this analysis summarizes the current secrecy sleeve rules in Pennsylvania and also describes the rules of sixteen states that also use or require secrecy sleeves.

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## I. Introduction

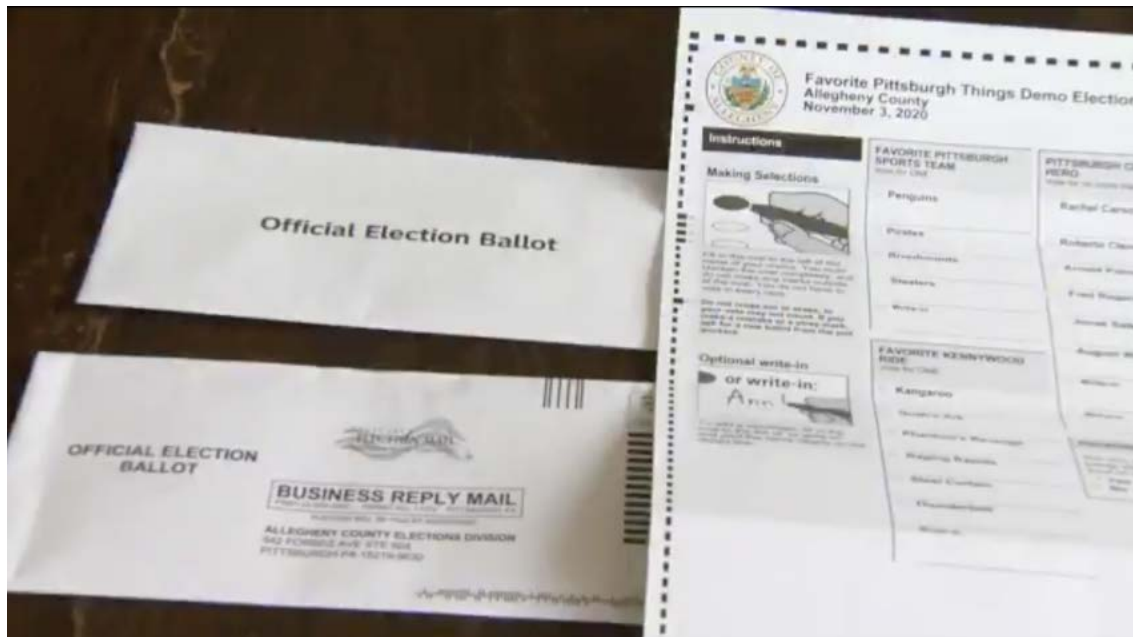
During the 2020 general election, at least [sixteen states](#) will provide absentee voters with a “secrecy sleeve” in addition to an outer envelope, voter instructions, and the ballot itself. A secrecy sleeve, often called an “inner envelope” or “privacy sleeve,” is a paper envelope (or, in some cases, a folded piece of paper) within which voters place their absentee ballot. The secrecy sleeve enclosing the ballot is then placed inside an outer envelope, sometimes called the return envelope, which is then signed, sealed, and delivered to election officials. The intended purpose of the secrecy sleeve is to protect a voter’s privacy, since it separates the ballot itself from a voter’s identity.

Unfortunately, some voters unfamiliar with the mail-in ballot process have historically placed their completed ballots directly inside the outer envelope, accidentally discarding the secrecy sleeve. When this happens, election officials will receive what is called a “naked ballot”—a voter’s ballot inside one sealed envelope rather than two.

Of the sixteen states that provide voters with a secrecy sleeve, some of them—including Pennsylvania, Kentucky, New Hampshire, and Ohio—will reject any naked ballots in 2020, so ballots missing secrecy sleeves will simply not count. Other states—such as Florida, Georgia, and Washington—take the opposite approach, opting to count votes even if they are received without a secrecy sleeve. This memo outlines the various rules and procedures of each relevant state to help voters know if their accidental naked ballot will still count or be rejected.

## II. Pennsylvania's Secrecy Sleeve Requirement

On September 17, 2020, the Pennsylvania Supreme Court [ruled](#) that returned absentee ballots arriving without secrecy envelopes will be rejected and therefore not count in the upcoming November election. In the June primary election, [most counties](#) in Pennsylvania, including Philadelphia, did not reject these ballots. And, according to [one estimate](#), rejecting those ballots statewide would have amounted to over 11,000 fewer votes being counted, or over 6% of all absentee votes.




The “Official Election Ballot” is Pennsylvania’s secrecy envelope, while the “Business Reply Mail” is the outer envelope, and ballots must be enclosed within both in order to be counted.

Four days later, on September 21, Philadelphia’s City Commissioner Lisa M. Deeley sent a [letter](#) to the state legislature, urging it to take immediate action in response to the court decision. Describing the secrecy envelope requirement as a “vestige of the past” that only served to “disenfranchise well intentioned Pennsylvania voters,” Deeley noted that secrecy sleeves had lost relevance over time. In a previous era, secrecy sleeves protected the identifying information of voters because absentee ballots were counted in public view at individual polling locations. Today, however, absentee ballots are counted at a central location and through an “industrialized process,” Deeley explained, so their primary purpose has disappeared.


In addition, Deeley wrote that removing the secrecy sleeve requirement would save thousands of dollars per year and speed up the counting process. Without any secrecy envelopes, for example, absentee votes could be removed from envelopes at 24,000 ballots an hour (double the current rate) and scanned at 32,000 ballots an hour. At that speed, Deeley wrote, “there is no opportunity to stop, or even slow down, and identify how an individual voted—anonymity is maintained.”

# PENNSYLVANIA VOTERS:




## You may be naked, but your ballot must not.\*


### How to properly complete your Pennsylvania Mail-in Ballot




**1** Complete your ballot in blue or black ink.





**2** Insert your completed ballot into the small ballot envelope. If your ballot is not inside the small envelope, it will be considered a “naked ballot” and will **NOT** be counted.  
*(Think of it as underwear for your ballot.)*





**3** Place your sealed ballot envelope into the larger return envelope.  
*(This would be your ballot’s pants.)*





**4** Seal the return envelope and sign and date the voter declaration. Your ballot is ready to be mailed.

*\*Does not apply for in-person voting.*

@joshinphl

If the Pennsylvania Supreme Court’s decision stands, and all absentee ballots arriving without sleeves are rejected, Deeley estimated that over 100,000 ballots in Pennsylvania could be thrown out during the 2020 general election, based on estimates from previous elections and the massive increase in first time absentee voters expected this year. Notably, the 2016 presidential election in Pennsylvania was decided by just over [44,000 votes](#). It is difficult to independently estimate the impact of the court decision because many counties (including Philadelphia) [did not keep track](#) of “naked ballots” during the primary. However, [Mercer County](#) and [Lawrence County](#) tracked naked ballots and found that 5 percent of all absentee mail ballots lacked a secrecy envelope. And, according to Lawrence’s elections director [Ed Allison](#), there were more rejected naked ballots than late ballots during the primary.

The Pennsylvania Supreme Court decision came down to whether or not the statutory language of Pennsylvania’s secrecy envelope provision was mandatory or directory. Justice Baer in the [majority opinion](#) concluded that the provision was indeed mandatory, and that “[w]hatever the wisdom of the requirement, the command that the mail-in elector utilize the secrecy envelope and leave it unblemished by identifying information is neither ambiguous nor unreasonable.” The decision also ruled on a number of other voting-related matters, allowing ballots to be counted if received up to three days after Election Day, permitting the use of ballot drop boxes, and blocking the use of partisan poll watchers in out-of-county locations. After the decision, Pennsylvania Republicans [asked](#) the U.S. Supreme Court to stay the holding. The decision has also sparked a flurry of voter education efforts from nonprofit organizations and political campaigns, which include graphics and videos that highlight the now-required secrecy envelope.

### III. The Use of Secrecy Sleeves in Other States

Outside of Pennsylvania, at least [fifteen states](#) have state laws requiring election officials to provide absentee voters with secrecy sleeves, but these states vary widely on whether ballots returned without a secrecy sleeve will be counted or rejected. In most cases, the legal necessity of secrecy sleeves depends on whether other required voter authentication requirements—such as the location for voter signatures—are printed on the secrecy sleeve itself, rather than the outer sleeve. In states where the inner envelope doubles as a voter certification document or a place for the voter’s signature, the ballot will be rejected without one. In states where the inner envelope is just a secrecy sleeve used for a voter’s convenience, however, “naked ballots” are typically not rejected.

## IV. States That Reject Naked Ballots

### A. Kentucky

Kentucky has a two-envelope system that [requires a voter signature](#) on both the inner yellow envelope and the outer white envelope. For the November election, the state will still accept ballots if the inner envelope is not sealed, but **Kentucky will reject ballots that are missing an inner envelope**. Indeed, during the 2020 Kentucky primary, 32,048 ballots were rejected, including [nearly 2,000](#) ballots rejected for missing the inner envelope.

Kentucky's [statute](#) itself requires that the county clerk send to voters two official envelopes for returning their mail-in absentee ballots, along with the ballots themselves. The outer envelope is labeled "Absentee Ballot" and provides space for the voter's signature, voting address, precinct number, and witness signatures (if the voter signs with a mark instead of a signature). In addition, a "detachable flap on the secrecy envelope" provides space for the same information.

**Rules for Nov.**

Reason for Rejection	Count	Percentage	Rule
Because one or both signatures were missing	15,075	47%	Accept if one signature
Late	4,079	13%	Reject
Flap missing or detached	3,865	12%	Accept if detached
Inner envelope not sealed	3,413	11%	Accept
No inner envelope	1,963	6%	Reject
No outer envelope	1,113	3%	Accept

**Inner envelope**

FOLLOWING TO BE TYPED BY CLERK BEFORE MAILING

VOTER'S NAME \_\_\_\_\_

VOTING ADDRESS \_\_\_\_\_

PRECINCT NUMBER \_\_\_\_\_

KRS 117.090(5) Any person who signs a name other than his own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one (1) named in his name, or any person who applies for the ballot for the use of anyone other than himself or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on any emergency absentee ballot affidavit shall be guilty of a Class D felony.

**X**

VOTER MUST SIGN (or "mark") HERE

TWO WITNESSES MUST SIGN IF "MARK" IS USED:

WITNESS \_\_\_\_\_ WITNESS \_\_\_\_\_

**OATH FOR VOTER NOT CERTIFIED AS PERMANENT BASIS**

Complete the following only if you require assistance to vote.

(Voter certified as requiring assistance on a permanent basis need not sign this oath form, but person assisting voter must sign below.)

I hereby state, under oath (or affirmation), that I am a qualified voter in the precinct listed above, and that the reason I require assistance in voting is:

☐ Blindness ☐ Physical disability ☐ Inability to read English

Signature or "Mark" of Voter \_\_\_\_\_

Two witnesses must sign if "mark" is used.

WITNESS \_\_\_\_\_ WITNESS \_\_\_\_\_

**OATH FOR PERSON ASSISTING VOTER**

I hereby state, under oath (or affirmation), that I will mark the ballot in accordance with the directions of the voter requiring assistance. I further state that I am not the voter's employer, an agent of that employer, or an officer or agent with that voter's access.

WITNESS \_\_\_\_\_ WITNESS \_\_\_\_\_

**Outer envelope**

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

Mailing voter (77.080) KRS 117.090(7)

**OFFICIAL ELECTION MAIL**

Authorized by the U.S. Postal Service

**OFFICIAL ABSENTEE BALLOT MATERIAL**

VOTER MUST SIGN HERE

TWO WITNESSES MUST SIGN IF "MARK" IS USED

WITNESS \_\_\_\_\_ WITNESS \_\_\_\_\_

VOTER'S NAME \_\_\_\_\_

VOTING ADDRESS \_\_\_\_\_

PRECINCT NUMBER \_\_\_\_\_



## B. New Hampshire

New Hampshire absentee ballots contain an [inner affidavit envelope](#) that requires a signature. Without a signature, ballots [will be rejected](#). This also suggests that **missing inner envelopes will result in the rejection of a voter's absentee ballot**.

New Hampshire's relevant [statute](#) provides that the secretary of state shall prepare absentee ballots, along with affidavit envelopes large enough to contain the ballots. The affidavits printed on these envelopes certify that the person filling out the ballot (or the person on behalf of whom the ballot is filled out) is a New Hampshire voter who is unable to vote in person for that election. The affidavit leaves spaces blank for the voter (or the person assisting the voter) to print his or her name, city or town, and ward, and to include a signature.

TOWN OF _____	
<b>Absentee from City or Town.</b> A person voting by absentee ballot because of absence from the city or town in which he or she is entitled to vote shall fill out and sign the following certificate: I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of _____, New Hampshire, in ward _____, that I will be unable to appear at any time during polling hours at any polling place because I will be working on election day or I am voting on the Monday immediately prior to the election, the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning, and I am elderly or infirm, have a physical disability, or have in care for children or infirm adults, or I will be otherwise absent on election day from said city or town and will be unable to vote in person. I certify that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind).	<b>Absentee Because of Religious Observance or Physical Disability.</b> A person voting by absentee ballot because of religious observance or physical disability shall fill out and sign the following certificate: I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of _____, New Hampshire in ward _____ that I will be observing a religious commitment which prevents me from voting in person or that on account of physical disability I am unable to vote in person.
Signature _____	Signature _____
Print Name _____	Print Name _____
A person assisting a disabled or blind voter shall make and sign a statement on this envelope in the space provided acknowledging the assistance.	
I attest that I assisted the applicant in executing this form because he/she has a disability.	
Signature _____	Print Name _____
In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting in a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.	
Form A 1/2019	

**Affidavit Envelope:** Please sign one of the two affidavits that best suits your situation. If you received assistance in completing your ballot, your assistant must sign as well. Seal your ballot in this envelope. (No other documents should be enclosed in this envelope).

**Return Envelope:** Seal your Affidavit Envelope in this envelope to return. If you have any documents which need to be returned with your ballot, those are sealed in this envelope as well. Don't forget your postage!

Name \_\_\_\_\_  
Voting Address \_\_\_\_\_ Ward \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
FORM P

ENCLOSED IS THE BALLOT OF AN ABSENTEE VOTER.

TO: TOWN OR CITY CLERK OF \_\_\_\_\_ CITY CLERK  
51 No. Park St.  
Lebanon, NH 03766

A related [statute](#) states that “[t]he voter shall execute the affidavit on the envelope . . . shall enclose and seal the inner envelope with the affidavit in an outer envelope . . . [and] shall then endorse on the outer envelope the voter’s name, address, and voting place.” New Hampshire’s statutes also include provisions expressly mandating both that inner envelopes be provided to voters, and that these envelopes be signed and included with the ballot. Thus, New Hampshire’s inner envelopes serve not only as secrecy sleeves but also as affidavits, increasing their importance.

## C. New Jersey

In New Jersey, each ballot [contains](#) an outer envelope, an inner envelope that requires a signature, a page with general information, and the ballot itself. Although each county designs their ballots differently, they all contain an inner envelope which requires a signature. Because the inner envelope is needed for signature verification, **a missing inner envelope will result in ballot rejection**. For example, during the 2020 primary, 1,949 ballots [were rejected](#) for omitting signature certifications. All told, around 35,000 absentee ballots [were rejected](#) in New Jersey during the 2020 primary.

**FOR YOUR VOTE TO COUNT,**  
YOU MUST SEAL YOUR BALLOT IN THIS ENVELOPE AND  
COMPLETE & SIGN THIS CERTIFICATE

PRIMARY ELECTION  
ROXBURY TOWNSHIP - 04 - 02

ID: 128221  
Reg/RemdRes/ANN

**CERTIFICATE OF MAIL-IN VOTER**

I, the undersigned, whose name, address and municipality appear on this certificate, DO HEREBY CERTIFY, subject to the penalties for fraudulent voting, that I am the person who applied for the enclosed ballot for the Primary Election. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist me in doing so.

I marked this ballot for the Democrat political party.  
(Name of party)

**Sign Name Here**  
as it appears in the Poll Book **X**  
(Signature or mark of Voter)

PRIMARY ELECTION  
ROXBURY TOWNSHIP - 04 - 02

**DO NOT DETACH**

Democrat

New Jersey law [requires](#) that county clerks send two envelopes “of such sizes that one will contain the other” with each mail-in ballot. New Jersey’s inner envelope is also notable because the voter certificate is included on a flap attached to the inner envelope. Finally, a reminder is printed on the outer envelope, which states in relevant part, “for your vote to count, you must: 1) Vote your ballot and place it in the inner envelope with the attached certificate, 2) Seal the envelope, 3) Place the envelope into the larger envelope addressed to the board of elections and seal that envelope.” Thus, the plain language of the statute also suggests that ballots that are not contained in their secrecy envelopes will be rejected.



## D. New York

New York's absentee ballots contain an inner envelope (called the "ballot envelope") that has the voter affirmation requiring a signature. According to [Oswego](#) and [Cattaraugus](#) Counties, election officials say that "unless the oath is signed and the ballot is enclosed in the secrecy envelope, your ballot will not be counted." As such, **ballots in New York will be rejected if they are missing the inner envelope or corresponding signature.** During New York's 2020 primary, election officials rejected [over 84,000 ballots](#) in New York City alone due to a combination of missing signatures, mismatched signatures, and absentee ballots arriving without postmarks. However, recent state law changes and [an agreement](#) between New York and the League of Women Voters will give voters the opportunity to correct technical errors or other problems.

**OFFICIAL ABSENTEE BALLOT**

036160

General Election November 3, 2020  
District: City of Rye ED 7  
Ballot: \_\_\_\_\_

VOTER ID: \_\_\_\_\_  
COUNTY: WESTCHESTER

**General Election November 3, 2020**  
**SIGNATURE REQUIRED (SEE OTHER SIDE)**

**Ballot envelope**  
Sobre de boleta electoral

**Instructions to voter:**

1. First mark your ballot, then fold it and place it in this envelope, and then seal this envelope.
2. Sign and date the statement on the reverse side of this envelope. Your signature will be compared to the signature on file with the board of elections to verify your identity.
3. Place this envelope in the return envelope.
4. Your ballot can be returned to any Early Voting or Election Day poll site, or to your local Board of Elections by 9:00 pm on Election Day, if delivered in person, or be postmarked by Election Day and received not later than seven days following the election.

If you have an application for an absentee ballot, do not place it in this envelope. Instead, place it in the return envelope along with this sealed envelope.

**Board of Elections use only / Para uso exclusivo de la junta electoral**

**OFFICIAL ABSENTEE BALLOT FOR GENERAL (OR PRIMARY OR SPECIAL) ELECTION** \_\_\_\_\_, 20\_\_\_\_

Name of voter \_\_\_\_\_  
Residence (street and number if any) \_\_\_\_\_  
City/or town of \_\_\_\_\_ (village, if any) \_\_\_\_\_  
County of \_\_\_\_\_  
Assembly district \_\_\_\_\_  
Legislative district (as applicable) \_\_\_\_\_  
Ward (as applicable) \_\_\_\_\_  
Election district \_\_\_\_\_  
Party enrollment (in case of primary election) \_\_\_\_\_  
Inspector (D) \_\_\_\_\_ Inspector (R) \_\_\_\_\_

**Instrucciones para el votante:**

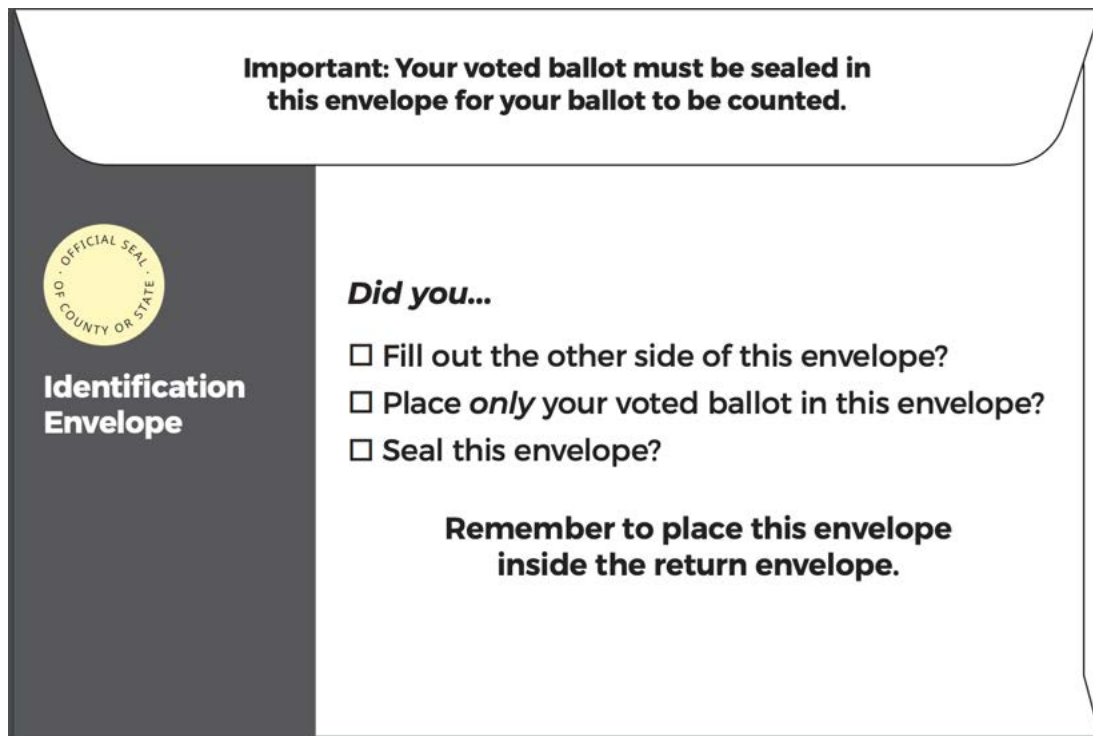
1. Primero, marque su boleta electoral, luego, dóblela y ubíquela en este sobre y selle el sobre.
2. Firme y feche la declaración en el reverso de este sobre. Su firma se comparará con la firma archivada en la junta electoral para verificar su identidad.
3. Ubique este sobre en el sobre de devolución.
4. Su boleta puede devolverse a cualquier centro de votación del Día de la Elección o Votación Anticipada, o a la Junta Electoral local antes de las 9:00 pm del Día de la Elección, si se entrega en persona, o llevar el matasellos del Día de la Elección y recibirla a más tardar siete días después la elección.

Si tiene una solicitud para boleta electoral en ausencia, no la coloque en este sobre. Colóquela en el sobre de devolución junto con este sobre sellado.

New York's [election code](#) explains that "[t]he board of elections shall furnish with each absentee ballot an inner affirmation envelope." One side of this inner envelope has spaces printed for the voter's name, residence, district, and other identifying information. The reverse side of the inner envelope displays the voter affirmation, declaring that the voter meets all requirements and qualifications, and leaving room for the date, the voter's signature, and the signature of a witness (if the voter does not sign his or her name). The inner affirmation envelope additionally includes instructions for the voter regarding the marking, mailing, and timing of the ballot.

## E. Ohio

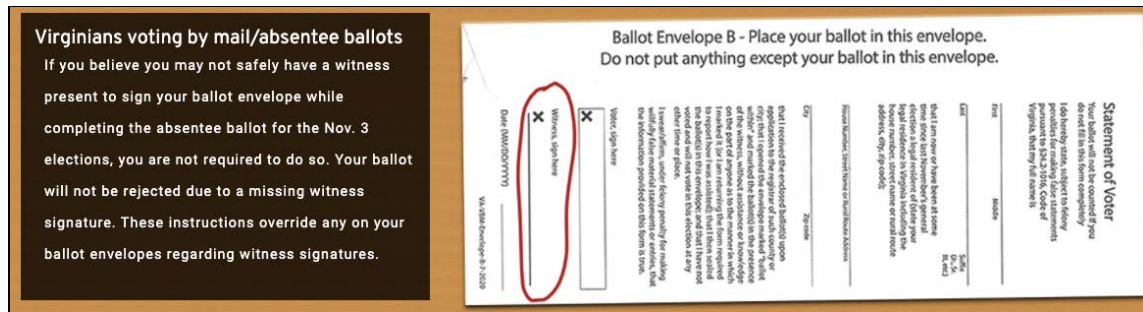
The Ohio absentee ballot package contains an inner [absentee ballot “identification envelope”](#) that is required for signature verification purposes. Therefore, **absentee ballots received without inner envelopes will be rejected in Ohio**. During the 2020 primary, of the 21,154 ballots that were rejected in the state, nearly 4,000 of them were [rejected](#) on the basis of being returned without the identification envelope or without containing sufficient information on the inner envelope.



Under Ohio law, the director of elections is [required](#) to send, with an absentee ballot, the identification envelope, along with a return envelope that bears the post office address of the director. Printed on the inner envelope is the “Identification Envelope Statement of Voter,” which includes spaces for the voter’s name, residence, and other identifying information, as well as a declaration of the veracity of the information provided, and space for the voter’s signature. Therefore, failure to include the identification envelope within the return envelope would mean the absence of this important information and declaration.

## F. Virginia

The Virginia absentee ballot contains an [inner envelope](#) that requires a voter signature. Therefore, **a missing inner envelope will result in a ballot's rejection**. In 2020, however, Virginia will [not require](#) a witness signature to be counted.



According to the Virginia [election code](#), absentee voters must be sent a ballot, along with an envelope “for resealing the marked ballot,” as well as a return envelope. The side flap of the inner envelope displays the “Statement of Voter,” which contains the standard oath for absentee voters. The statute says that “[w]hen this statement has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge[.]”

## V. States (and Counties) That Accept Naked Ballots

### A. Alaska

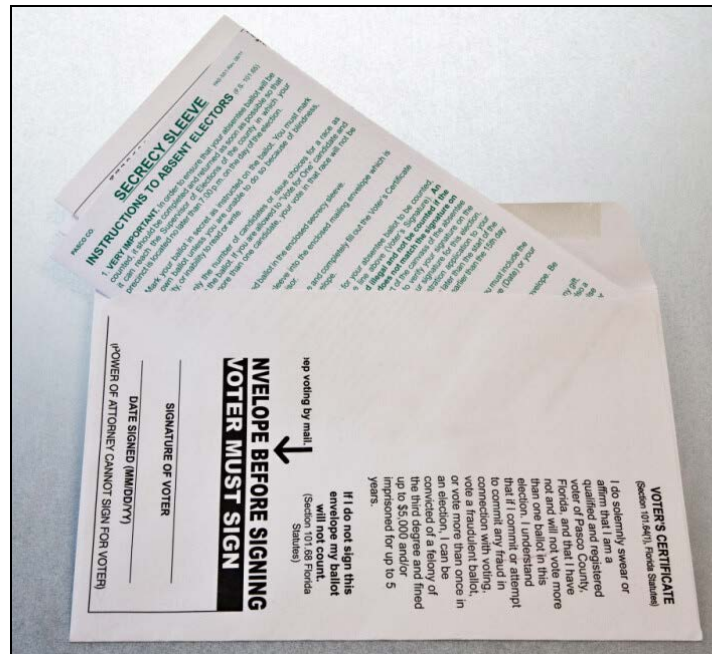
During the 2020 primaries, a total of 1,240 absentee ballots were [rejected](#) in Alaska, often due to a missing (or improper) voter signature or witness signature, or because the ballot envelope was postmarked after Election Day. The state has not previously specified “missing secrecy sleeve” as a reason for rejection, and the Alaska Division of Elections for the Municipality of Anchorage said that **election officials will not reject ballots regardless of the whereabouts of the secrecy sleeve**, which was also its policy during the primary. Thus, it is likely that voters can forget to use a secrecy sleeve and still have their vote counted, at least in Anchorage.

[Alaska law](#) requires that the election director “shall provide a secrecy sleeve in which the voter shall initially place the marked ballot, and shall provide an envelope with the prescribed voter’s

certificate on it, in which the secrecy sleeve with ballot enclosed shall be placed.” This statute places requirements on both the election official and the voter to make use of the secrecy sleeve. However, the space for the voter’s signature, witness signature, and declaration that the voter meets all requirements appear on the mailing envelope, not on the secrecy sleeve.

## B. Florida

Each absentee ballot in Florida contains a ballot, a secrecy sleeve with instructions for the absentee voter, and a return envelope. **However, if a voter forgets to include the secrecy sleeve with the ballot, the vote will still be counted**, according to [election officials](#). Nevertheless, around [18,000 absentee ballots were rejected](#) during the 2020 presidential primary due to missing signatures and mismatched signatures, among other reasons.



Florida’s [election code](#) provides secrecy sleeve instructions for both election officials and voters. It states, in relevant part, that supervisors “shall enclose with each vote-by-mail ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope.” The voter’s certificate must be printed on the back of the mailing envelope, with the line for the voter’s signature crossing the seal of the envelope. The secrecy envelope itself displays a printed warning that the ballot will not be counted if it is not received by the supervisor of elections by 7 PM on Election Day.

## C. Georgia

In 2020, Georgia absentee ballots [contain](#) an absentee ballot, instructions, an outer envelope, and a “privacy sleeve” in the form of a white piece of paper. A recent order from a [district court in Georgia](#) notes that “the ballot design was changed for the 2020 primary election to eliminate the secrecy envelope. . . . Instead, the 2020 primary ballot included a ‘privacy sleeve,’ a change that was made to ‘allow faster processing of returned ballots by election officials.’” This change [remains in effect](#) for the 2020 general election. Crucially, **officials say that returning the absentee ballot inside the secrecy sleeve is [entirely optional](#)**. Note, however, that the Georgia Secretary of State’s office [mistakenly included](#) in their instructions that absentee ballots will include an inner “envelope” rather than a folded white sheet of paper that now serves as the secrecy sleeve.

Despite this change, over 11,000 ballots were still [rejected](#) during Georgia’s 2020 presidential primaries in Georgia, including over 8,749 rejections for late delivery. [Other reasons](#) for rejection included missing signatures and the invalid marking on the ballot.

Georgia’s [election code](#) details the requirements of voters with respect to the secrecy envelope. It states that “the elector shall vote his or her absentee ballot, then fold the ballot and enclose and securely seal the same in the envelope on which is printed ‘Official Absentee Ballot.’ This envelope shall then be placed in the second one, on which is printed the form of the oath of the elector; the name and oath of the person assisting, if any; and other required identifying information.” Nevertheless, as noted above, the use of the inner envelope (now a folded piece of paper) is optional.

## D. Hawaii

Enclosed in each [absentee ballot envelope](#) is a return envelope, a yellow secret sleeve, general information, and the ballot itself. Critically, **ballots will [still be counted](#) if the voter forgets to use the secrecy sleeve**.

Hawaii’s absentee voting [statute](#) explicitly requires that the clerk provide absentee voters with “ballots, ballot envelopes, and a return envelope





that shall contain a statement to be subscribed to by the voter.” The statement affirms that the voter is the person voting, and must be signed for the ballot to be valid.

## E. Minnesota

Minnesota’s [election code](#) requires that “a return envelope, a ballot envelope, and a copy of the directions for casting an absentee ballot” be provided to each absentee voter. The statute also details the design of the envelopes, requiring that the “return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application.” According to phone calls with officials in two counties, Hennepin and St. Louis counties, **a missing secrecy envelope is not a criteria for rejection**. However, these countries also use a separate “signature envelope” (in addition to the return envelope and the secrecy envelope) that is required for signature verification. Either way, it appears that the state will not reject a ballot lacking only the secrecy envelope.

**Highlights and “X”s**

In addition to drawing an “X” through the witness section on applicable ballots, officials in St. Louis County, Minn., are highlighting important sections that voters sometimes miss.

**Signature Envelope**

Voter must complete this section please print clearly

Voter name \_\_\_\_\_

Voter MN address \_\_\_\_\_ MN

ID number (MN driver’s license #, MN ID card #, or last four digits of SSN) \_\_\_\_\_

☐ I do not have a MN-issued driver’s license, MN-issued ID card, or a Social Security Number.

I certify that on Election Day I will meet all the legal requirements to vote.

Voter Signature **X** \_\_\_\_\_

**Witness must complete this section**

Witness name \_\_\_\_\_

MN street address \_\_\_\_\_ MN

(or title, if an official or Notary) \_\_\_\_\_

City \_\_\_\_\_

I certify that:

- the voter showed me the blank ballot before voting;
- the voter marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
- the voter enclosed and sealed the ballots in the ballot envelope; and
- I am or have been registered to vote in Minnesota, or am a notary, or am authorized to give oaths.

Witness Signature **X** \_\_\_\_\_

If notary, must affix stamp

**For Official Use Only**

☐ Accepted ☐ Rejected (reason) \_\_\_\_\_

PRER Signature Envelope—Registered

Two options are provided with respect to the placement of voter information. Either the return envelope must be large enough to contain an additional envelope, which conceals the voter’s signature, identification, and other information, or the return envelope must include an additional flap that conceals this information. This language appears to leave open the possibility that the inner envelope need not necessarily be the vehicle for providing identifying voter information.

Finally, the certificate of eligibility to vote by absentee ballot, which has spaces for both the voter and a witness to sign, is printed on the back of the return envelope, rather than the inner envelope.



## F. North Dakota

The North Dakota [Century Code](#) states simply that, when a voter is sent an absentee ballot, “a secrecy envelope and a return envelope must be enclosed with the ballot.” The voter affidavit, and spaces for the voter’s signature and identifying information are displayed on the back side of the return envelope, not the secrecy envelope.

Burleigh County’s Election Manager Erika White [said](#) that “there’s nothing in law that states we need [the secrecy envelope] coming back, and we see ballots all the time where we just have the ballot inside of this envelope, and that’s fine, we accept that. It’s really up to the voter if they want to use the secrecy sleeve.” Therefore, **it appears that absentee ballots lacking secrecy sleeves will still be counted in North Dakota.**

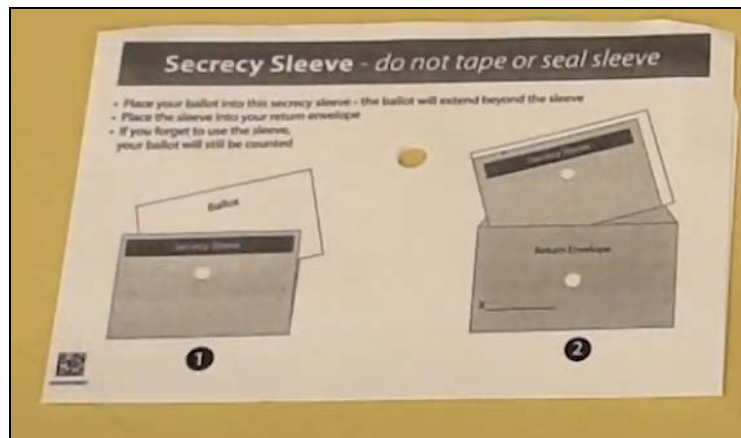
## G. Texas

Texas provides two envelopes, an inner “ballot envelope” and an outer “carrier envelope” that includes voter information such as [a signature](#). According to the secretary of state, voters receiving ballots via the Military and Overseas Voter Empowerment (MOVE) Act are not required to provide a secrecy envelope. State officials advise these voters that “[i]f you cannot provide a secrecy envelope at all, don’t worry, the lack of a secrecy envelope will not invalidate your ballot.” However, it is unclear if these rules apply to in-country absentee voters. Texas has strict technical requirements and a history of rejecting absentee ballots, including [rejecting ballots](#) “if a voter indicated they would be out of the county during the voting period, but the ballot was mailed from within the county.” Nevertheless, according to a county official in Harris county, election workers will sort through the ballots manually and **the ballots will still be counted if the voter forgets to include the inner envelope.**

The Texas [election code](#) requires that “Ballot Envelope’ . . . be printed on the face of each officially prescribed ballot envelope for a ballot to be voted by mail.” Otherwise, the inner ballot envelope is only required to display instructions for marking and returning the ballot, the deadline for doing so, limitations on assistance to the voter, and criminal penalties for unlawful assistance. The outer [carrier envelope](#), by contrast, must include space for the voter to identify the relevant election and include personal identifying information, as well as the voter certificate and signature, along with other specified textual material and the oath of a person assisting the voter. It is unclear if the inner ballot is nonetheless required for a ballot to be counted.

## H. Washington State

Washington's absentee ballots are sent with secrecy sleeves, but officials [say that](#) "the ballot [will] still [be] processed as normal if the security envelope is unsealed". Indeed, the secrecy sleeve itself in at least [one county](#) has the words written on it: "if you forget to use the sleeve, your ballot will still be counted." Therefore, **it appears that ballots received without secrecy sleeves will not be rejected.**



Washington's [election code](#) requires that absentee voters be provided with "a security envelope in which to conceal the ballot after voting," along with a larger return envelope. The code further mandates that the voter swear to and sign a provided declaration, but states simply that the "ballot materials must provide space for the voter to sign the declaration," without specifying which envelope or other element of the ballot materials the oath shall be printed on.

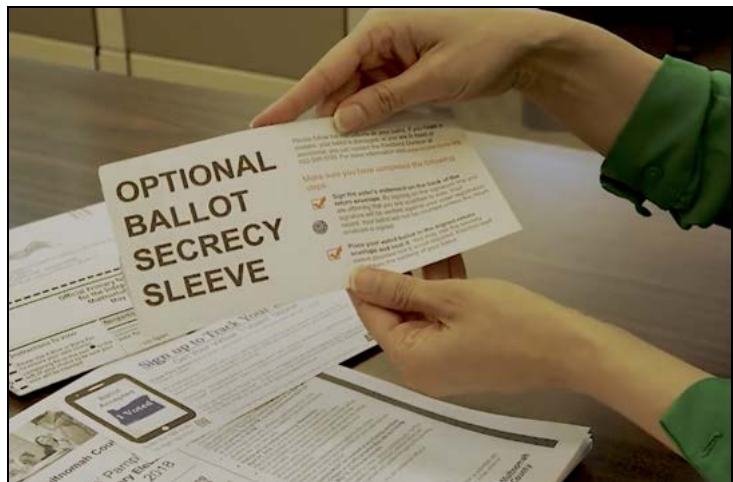
## A. West Virginia

West Virginia absentee ballots are sent with inner and outer envelopes, but the state does not specify whether ballots arriving without inner envelopes will be rejected. Indeed, secretary of state Mac Warner [does not know](#) the number of absentee ballots rejected during the 2020 primary. However, absentee ballot [instructions](#) advise voters to fold a completed ballot, put it in "envelope #1" and seal that inner envelope before placing the inner envelope into "envelope #2," which then must be sealed. Nevertheless, election officials at the County Clerk's office in Kanawha County said that **ballots will not be rejected if the voter fails to use the inner envelope.**

The state's [election code](#) requires that election officials provide absentee voters with two envelopes, one marked "Absent Voter's Ballot Envelope No. 1" and the other marked "Absent Voter's Ballot Envelope No. 2." The voter must place his or her ballot into the envelope marked "No. 1" and seal it, and then place this sealed envelope into the envelope marked "No. 2." Finally, the forms on the outer envelope (No. 2) must be completed and signed before the envelope is returned. Therefore, while the voter certification is on the outer, rather than the inner envelope, the code does specify the voter's procedure in using both envelopes.

## VI. States Without Required Secrecy Sleeves

A few states allow for, but do not require, counties to provide secrecy sleeves to absentee voters. For example, under [Montana law](#), "[i]f a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot" and the ballot will still be counted. Finally, in [Oregon](#), the state assures voters that "[t]he county elections office will maintain the privacy of your ballot if you forget the optional secrecy envelope or sleeve and your ballot will still count."



## VII. Conclusion

Of the sixteen states that require election officials to provide absentee voters with secrecy sleeves, just four states—Florida, Georgia, Hawaii, and Washington—have made it clear that they will still count "naked ballots," or ballots received without a secrecy sleeve, statewide. But large counties in several states—including Alaska, Minnesota, North Dakota, Texas, and West Virginia—have also confirmed that these ballots will still count. For every other area, however, voters should closely follow ballot instructions and place their ballot inside the inner envelope before placing the inner envelope inside the outer envelope. If not, voters risk their ballot being rejected and their vote not counting in the 2020 general election.