

**SENATE . . . . . No. 2129**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to recall in the town of Middlefield.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. A holder of an elected office in the town of Middlefield may be recalled  
2 therefrom by the registered voters of the town as herein provided in this act.

3 SECTION 2. Any fifty (50) registered voters of the town of Middlefield may file with the  
4 town clerk a recall affidavit, using either a blank recall affidavit as prepared by the town clerk or  
5 an affidavit substantially similar thereto, containing the name and position of the officer whose  
6 recall is sought and a statement of the grounds for the recall. Upon certification of the required  
7 signatures, the clerk shall forthwith deliver to the first named voter on the affidavit copies of  
8 petition blanks addressed to the board of selectmen demanding the recall, copies of which  
9 printed forms the clerk shall keep available. The blanks shall be issued by the clerk with the  
10 signature and official seal of the clerk attached thereto. They shall be dated, shall contain the  
11 names of the first 50 registered voters whose names appear on the recall affidavit, the name and  
12 position of the person whose recall is sought and the grounds of recall such as as stated in the  
13 affidavit and shall demand the election of a successor to the office. A copy of the petition shall  
14 be entered in a record book to be kept in the office of the clerk. The recall petition shall be

15 returned and filed with the clerk within thirty (30) days after the filling of the affidavit and shall  
16 have been signed by at least twenty-five (25) percent of the registered voters of the town as of  
17 the date the affidavit was filed with the clerk. To every signature shall be added the place of  
18 residence of the signer, giving the street and number, if any. The said recall petition shall be  
19 submitted to the Town Clerk by 12:00 p.m. on the Saturday preceding the day which it must be  
20 filed. The clerk shall, within 72 hours of receipt thereof, submit the petition to the registrars of  
21 voters in the town, and the registrars shall forthwith certify thereon the number of signatures  
22 which are the names of registered voters of the town.

23 SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient,  
24 the clerk shall submit the same with his certification to the board of selectmen without delay.  
25 The board of selectmen shall forthwith give written notice of the receipt of the certificate, either  
26 by hand or by certified mail, return receipt requested, to the officer sought to be recalled. If the  
27 officer does not resign within 5 days after receipt of the notice, the board of selectmen shall  
28 forthwith order an election to be held on a date fixed by them not less than sixty-four days and  
29 not more than seventy days after the date of the Town Clerk's certificate; but if any other town  
30 election is scheduled to occur within 100 days after the date of certificate, the board shall  
31 postpone the holding of the recall election to the date of the other election, and the question of  
32 recall shall appear on the ballot at the other election. If a vacancy occurs in the office after the  
33 recall election has been ordered, the election shall nevertheless proceed as provided in this  
34 section.

35 SECTION 3.5. If in accordance with Section 3 the petition is certified, written notice to  
36 said officer is provided and no resignation is received, and selectmen order an election to be  
37 held; the officer may file with the Town Clerk within fourteen (14) days of receipt of notification

38 an argument, in any, against such petition. No argument shall contain more than 500 words. All  
39 affidavits, petitions and arguments filed with the Town Clerk under this act shall be open to  
40 public inspection at the office of the Town Clerk of said town within ten (10) days of recall  
41 election.

42 SECTION 4. Any officer sought to be removed may be a candidate to succeed himself  
43 and, unless the officer requests otherwise in writing, the town clerk shall place his name on the  
44 ballot without nomination. The nomination of other candidates, the publication of the warrant for  
45 the recall election and the conduct of the same shall all be in accordance with the provisions of  
46 law relating to elections, unless otherwise provided in this act.

47 SECTION 5. The incumbent shall continue to perform the duties of the office until the  
48 recall election. If not recalled, the incumbent shall remain in office for the remainder of the  
49 unexpired term, subject to recall as before, except as provided in section 7. If recalled, the  
50 incumbent shall be deemed removed. If the successor fails to qualify within 10 days after  
51 receiving notification of his election, the office shall be deemed vacant.

52 SECTION 6. Ballots used in a recall election shall submit the following propositions in  
53 the order indicated:

54 For the recall of (name of officer)

55 Against the recall of (name of officer)

56 Immediately at the right of each proposition there shall be a square in which the voter, by  
57 making a cross mark (x), may vote for either of the propositions. Under the propositions shall  
58 appear the word "Candidates" and the directions to voters required by section 42 of Chapter 54

59 of the General Laws and, beneath this, the names of candidates nominated as hereinbefore  
60 provided. If a majority of the vast cast upon the question of recall is in the affirmative, the  
61 candidate receiving the highest number of votes shall be declared elected. If a majority of votes  
62 cast upon the question of recall is in the negative, the ballots cast for candidates to fill the  
63 potential vacancy shall not be counted.

64 SECTION 7. No recall petition shall be filed against an officer within (6) months after  
65 the officer takes office, nor in the last six (6) months of the term, nor in the case of an officer  
66 subjected to a recall election and not recalled thereby, until at least six (6) months after the  
67 election at which the recall was submitted to the voters of the town has elapsed.

68 SECTION 8. No person who has been recalled from an office or who has resigned from  
69 office while proceedings were pending against him shall be appointed to any town office within  
70 one (1) year after the recall or resignation.