

**SENATE . . . . . No. 2391**

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Ten**  
\_\_\_\_\_

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

15 voter on the affidavit the number of signatures needed to achieve the 25 per cent of registered  
16 voters. A copy of the petition shall be entered in a record book to be kept in the office of the  
17 clerk. The recall petition shall be returned and filed with the clerk not later a 35-day period from  
18 the date the affidavit is filed. The recall petition shall have been signed by at least 25 per cent of  
19 the registered voters of the town as of the date the affidavit is filed. To every signature shall be  
20 added the place of residence of the signer, giving the street and number, if any. The clerk shall,  
21 within 72 hours of receipt thereof, submit the petition to the registrars of voters in the town, and  
22 the registrars shall forthwith certify thereon the number of signatures which are the names of  
23 registered voters of the town.

24           SECTION 3. If the petition is certified by the town clerk to be sufficient, the town clerk  
25 shall submit the petition with the town clerk's certification to the board of selectmen without  
26 delay. The board of selectmen shall forthwith give written notice of the receipt of the certificate,  
27 either by hand or by certified mail, return receipt requested, to the person holding an elected  
28 office sought to be recalled. If the person holding an elected office does not resign within 5 days  
29 after receipt of the notice, the board of selectmen shall forthwith order an election to be held on a  
30 date fixed by them not less than 64 days and not more than 70 days after the date of the town  
31 clerk's certificate; provided, however, that if a town election is scheduled to occur within 100  
32 days after the date of certificate, the board shall postpone the holding of the recall election to the  
33 date of the other election and the question of recall shall appear on the ballot at the other  
34 election. The person holding an elected office may file with the town clerk within 14 days of the  
35 receipt of the notice, an argument that shall contain no more than 500 words explaining the  
36 officer's reasons for wanting to retain the position. If such argument is received, the town clerk  
37 shall make the argument open for public inspection during the normal business hours of the town

38 clerk's office until the date of the recall election. If a vacancy occurs in the office after the recall  
39 election has been ordered, the election shall nevertheless proceed as provided in this section.

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

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

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

53 For the recall of (name of officer)

54 Against the recall of (name of officer)

55 Immediately at the right of each proposition there shall be a square in which the voter, by  
56 making a cross mark (x), may vote for either of the propositions. Under the propositions shall  
57 appear the word "Candidates" and the directions to voters required by section 42 of chapter 54 of  
58 the General Laws and, beneath this, the names of candidates nominated as hereinbefore

59 provided. If a majority of the vast cast upon the question of recall is in the affirmative, the  
60 candidate receiving the highest number of votes shall be declared elected. If a majority of votes  
61 cast upon the question of recall is in the negative, the ballots cast for candidates to fill the  
62 potential vacancy shall not be counted.

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

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