

HOUSE No. 4646

The Commonwealth of Massachusetts

PRESENTED BY:

David F. DeCoste

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the recall of elected officials in the town of Norwell.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>8/17/2016</i>
<i>Patrick O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>8/25/2016</i>

HOUSE No. 4646

By Mr. DeCoste of Norwell, a petition (accompanied by bill, House, No. 4646) of David F. DeCoste and Patrick M. OConnor (by vote of the town) relative to the recall of elected officials in the town of Norwell. Election Laws. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the recall of elected officials in the town of Norwell.

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. Article 3 of the charter of the town of Norwell, on file in the office of the
2 archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is
3 hereby amended by adding the following section :-

4 3-13. Recall of Elected Officials

5 (a) Any holder of an elected office in the Town of Norwell who has held an elected town
6 wide office, and whose term of office extends beyond the next annual town election, may be
7 recalled therefrom by the registered voters of the Town, as herein provided, for reasons of: (1)
8 conviction of a felony, while presently in office, or conviction of the following misdemeanors,
9 while presently in office, as defined by the General Laws: domestic violence, driving under the
10 influence of alcohol or drugs, the illegal manufacture, distribution or dispensing of controlled
11 substances, assault or criminal harassment,; or (2) admission to facts, while presently in office,
12 sufficient to be convicted of a felony or sufficient to be convicted of the following misdemeanors

13 as defined in the General Laws: domestic violence, driving under the influence of alcohol or
14 drugs, the illegal manufacture, distribution or dispensing of controlled substances, assault or
15 criminal harassment; or (3) was found in violation of chapter 268A of the General Laws, known
16 as the conflict of interest law,, while presently in office, as determined by the State Ethics
17 Commission or the Attorney General; or (4) attended less than fifty (50%) percent of the posted
18 public meetings of the board or office of which the official was an elected member or to which
19 he or she has been elected or appointed as part of his/her elected position during the previous
20 twelve (12) months; or (5) in the case of an elected official not a part of a board, has engaged in
21 excessive absenteeism, including repeatedly working less than twenty (20) hours per week
22 without just cause, impacting the proper function and performance of the department . The
23 elected official's vote on a matter, other than in connection with a conflict of interest violation
24 referenced above, shall not be grounds for a recall petition.

25 (b) Ten (10) or more registered voters of the Town of Norwell may make and file a
26 Notice of Intent with the Town Clerk bearing the name of the elected official sought to be
27 recalled, and a statement of the specific grounds for the recall as established by subsection (a),
28 with information sufficient to support the specific grounds for recall, at least one hundred
29 seventy (170) days before the next annual town election. Upon certification of the required
30 signatures by the Registrar of Voters and a determination that the Notice of Intent contains
31 information sufficient to support the specific reason(s) and events for the recall as confirmed by
32 Town Counsel, within five (5) business days, the Clerk shall forthwith deliver to the first named
33 voter on the Notice of Intent, the petition forms, addressed to the Board of Selectman, requesting
34 a recall. The petition forms shall be issued under the signature and official seal of the Town
35 Clerk. They shall be dated and shall contain the names of the first ten (10) registered voters

36 whose names appear on the grounds for the recall as stated in the Notice of Intent to recall. In
37 addition, the petition shall request the election of a successor to the office. A copy of the petition
38 form shall be entered in a record book to be kept in the office of the Town Clerk. The recall
39 petition forms shall be returned and filed with the Town Clerk within sixty (60) days after the
40 receipt of the signed petition forms or the next business day after the 60th day if said day falls on
41 a Saturday, Sunday or legal holiday, with signatures, names and street precincts. The Town Clerk
42 shall, within three (3) business days following the day of the filing with the office of the Town
43 Clerk, submit the recall petition forms to the Registrar of Voters. The Registrars shall, within
44 fifteen (15) business days after the date of receipt, certify in writing to the Town Clerk thereon,
45 the number of signatures which are names of registered voters in Norwell.

46 (c) If the recall forms to be certified by the Registrar of Voters shall be found sufficient
47 by containing at least ten per cent (10%) of Norwell's registered voters including at least 100
48 registered voters from each of Norwell's three (3) Precincts as of the date of the most recent
49 Town election, the petition shall be filed by the Town Clerk with the Board of Selectmen within
50 two (2) business days. The selectmen shall give notice following their next scheduled meeting, in
51 writing, to the elected official whose recall is sought by sending that elected official a copy of the
52 certified recall petition.

53 If the elected official to whom the recall is directed by the Board of Selectmen does not
54 resign the office within five (5) business days from the date of notice, the Board of Selectmen
55 shall forthwith order an election to be held on the date of the next town election. If a vacancy
56 occurs in the office after a recall election has been ordered the election shall nevertheless
57 proceed as provided in this section, but only ballots for the new candidates shall be counted.

58 (d) An elected official whose recall is sought may not be a candidate to succeed him or
59 herself in the recall election. The nomination of candidates, the publication of the warrant for the
60 recall election and the conduct of the election shall be in accordance with the state and local laws
61 relative to elections, unless otherwise provided in this section.

62 (e) The incumbent shall continue to perform the duties of his or her office until the recall
63 election, unless the elected official resigns his or her position. If the incumbent is not recalled, he
64 or she shall remain in office for the remainder of his or her unexpired term, subject to recall as
65 before, except as provided by this section. If recalled in the recall election, he or she shall be
66 considered removed upon the qualification of the successor, who shall hold office during the
67 unexpired term.

68 (f) Ballots used in a recall petition shall contain the following propositions in the order
69 indicated:

70 “For the recall of (name of elected official) who holds the position of (elected office)”

71 “Against the recall of (name of official) who holds the position of (elected office)”

72 Immediately at the right of each proposition there shall be a designated space for voters
73 to vote for either of the propositions. Under the propositions shall appear the words “Candidates
74 and directions to voters required by Section 42 of Chapter 54 of the General Laws, and beneath
75 this, the names of the candidates nominated, listed alphabetically, as herein provided.” If a
76 majority of the votes cast upon the question of the recall are in favor of the recall, the elected
77 official shall be recalled and the ballots for candidates shall be counted. The candidate receiving
78 the highest number of votes shall be declared elected. If the majority of the votes cast are in the
79 negative, the ballots for candidates need not be counted unless the incumbent official has

80 resigned previously or a vacancy occurs in the office after a recall election has been ordered
81 pursuant to subsection (c).

82 (g) A recall petition shall not be filed against an elected official within six (6) months
83 after he or she has taken office, unless the elected official has been re-elected to another
84 consecutive term in office, then a recall petition may be filed within three (3) months after taking
85 office on the re-election vote; nor, in the case of an elected official subjected to a recall election
86 and not recalled thereby until at least six (6) months have elapsed after the election at which the
87 recall was submitted to the voters of the Town and further provided that an elected official
88 cannot be subject to a subsequent recall petition for the same specific reasons and events that
89 were the basis of any prior recall petition.

90 (h) A person who has been recalled from office, or who has resigned from office after the
91 recall petition has been certified by the Registrar of Voters, shall not be appointed to any town
92 office, board or committee within two (2) years after the recall or resignation.

93 SECTION 2. This act shall take effect upon its passage.