

HOUSE No. 641

The Commonwealth of Massachusetts

PRESENTED BY:

Josh S. Cutler and Michael D. Brady

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 Hanson town elections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/18/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/18/2019</i>

HOUSE No. 641

By Representative Cutler of Duxbury and Senator Brady, a joint petition (accompanied by bill, House, No. 641) of Josh S. Cutler and Michael D. Brady (by vote of the town) relative to the recall of elected officials in the town of Hanson. Election Laws. [Local Approval Received.]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4657 OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to Hanson town elections.

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. Chapter 214 of the Acts of 1986 is hereby repealed.

2 SECTION 2 - Recall of Elected Officials

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

10 sufficient to be convicted of a felony or sufficient to be convicted of the following misdemeanors
11 as defined in Massachusetts General Laws: domestic violence, driving under the influence of
12 alcohol or drugs, the illegal manufacture, distribution or dispensing of controlled substances,
13 assault or criminal harassment; or (3) was found in violation of the conflict of interest law
14 (M.G.L. c 268A), while presently in office, as determined by the State Ethics Commission or the
15 Attorney General; (4) attended less than fifty (50%) percent of the posted public meetings of the
16 board or office of which the official was an elected member or to which he/she has been elected
17 or appointed as part of his/her elected position during the previous twelve (12) months; (5) lack
18 of fitness, insobriety while performing official functions, involuntary commitment to a mental
19 health facility, being placed under guardianship or conservatorship by a probate court; or (6)
20 corruption, conviction of a felony involving moral turpitude, conviction of bribery, or extortion
21 or (7) violation of law, regulation, bylaw or other abdication of the applicable requirements for
22 the elected position. The elected official's vote on a matter (other than in connection with a
23 conflict of interest violation referenced above) shall not be grounds for a recall petition.

24 (b) Notice of Intent to Recall - One hundred fifty (150) or more registered voters of the
25 Town of Hanson, with a minimum of twenty five (25) registered voters from each precinct, may
26 make and file a Notice of Intent with the Town Clerk bearing the name of the elected official
27 sought to be recalled, and a statement of the specific grounds for the recall as established by
28 Section (a) above, with information sufficient to support the specific grounds for recall, at least
29 one hundred seventy (170) days before the next annual town election. Upon certification of the
30 required signatures by the Registrar of Voters and a determination that the Notice of Intent
31 contains information sufficient to support the specific reason(s) and events for the recall as
32 confirmed by Town Counsel, within five (5) business days, the Clerk shall forthwith deliver to

33 the first named voter on the Notice of Intent, the petition forms, addressed to the Board of
34 Selectmen, requesting a recall. The petition forms shall be issued under the signature and official
35 seal of the Town. They shall be dated and shall contain the names of the first ten (10) registered
36 voters whose names appear on the grounds for the recall as stated in the Notice of Intent to
37 recall. In addition, the petition shall request the election of a successor to the office. A copy of
38 the petition form shall be entered in a record book to be kept in the office of the Town Clerk. The
39 recall petition forms shall be returned and filed with the Town Clerk within sixty (60) days after
40 the receipt of the signed petition forms or the next business day after the 60th day if said day
41 falls on a Saturday, Sunday or legal holiday, with signatures, names and street precincts. The
42 Town Clerk shall, within three (3) business days following the day of the filing with the office of
43 the Town Clerk, submit the recall petition forms to the Registrar of Voters. The Registrars shall,
44 within fifteen (15) business days after the date of receipt, certify in writing to the Town Clerk
45 thereon, the number of signatures which are names of registered voters in Hanson.

46 (c) Recall Petitions - In order to be found sufficient, the recall petition forms to be
47 certified by the Registrar of Voters must contain at least ten percent (10%) of Hanson's
48 registered voters including at least 100 registered voters from each of Hanson's three (3)
49 precincts as of the date of the most recent town election. Upon such certification, the petition
50 shall be filed by the Town Clerk with the Board of Selectmen within two (2) business days. The
51 selectmen shall give notice following their next scheduled meeting, in writing, to the elected
52 official whose recall is sought by sending that elected official a copy of the certified recall
53 petition. 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 Act, 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 Act.

62 (e) The incumbent shall continue to perform the duties of his/her office until the recall
63 election, unless the elected official resigns his/her position. If the incumbent is not recalled,
64 he/she shall remain in office for the remainder of his/her unexpired term, subject to recall as
65 before, except as provided by this Act. If recalled in the recall election, he/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: “For the recall of (name of elected official) who holds the position of (elected office)”
70 “Against the recall of (name of official) who holds the position of (elected office)” Immediately
71 at the right of each proposition there shall be a designated space for voters to vote for either of
72 the propositions. Under the propositions shall appear the word “Candidates and directions to
73 voters required by Section 42 of Chapter 54 of the General Laws, and beneath this, the names of
74 the candidates nominated, listed alphabetically, as herein provided. If a majority of the votes cast
75 upon the question of the recall are in favor of the recall, the elected official shall be recalled and
76 the ballots for candidates shall be counted. The candidate receiving the highest number of votes
77 shall be declared elected. If the majority of the votes cast are in the negative, the ballots for

78 candidates need not be counted unless the incumbent official has resigned previously or a
79 vacancy occurs in the office after a recall election has been ordered pursuant to Section (c)
80 above.

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

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

92 SECTION 3. This act shall take effect upon its passage, or take any other action in
93 relation thereto.