HOUSE DOCKET, NO. 3205 FILED ON: 2/18/2021

HOUSE . . . . . No. 804

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 to provide accessible absentee voting to commonwealth voters with disabilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Kay Khan	*11th Middlesex*	*2/18/2021*
David Henry Argosky LeBoeuf	*17th Worcester*	*2/22/2021*
Kathleen R. LaNatra	*12th Plymouth*	*2/24/2021*
Jack Patrick Lewis	*7th Middlesex*	*2/24/2021*
Lindsay N. Sabadosa	*1st Hampshire*	*2/26/2021*

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By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 804) of Kay Khan and others for legislation to provide accessible absentee voting to voters with disabilities. Election Laws.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to provide accessible absentee voting to commonwealth voters with disabilities.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to All Commonwealth voters who qualify to vote by absentee ballot should be able to complete their complete their ballot and cast their ballots privately and independently. To make existing absentee voting ballots and procedures accessible to voters who are blind or have low vision, mobility/dexterity disabilities, or other disabilities that make it difficult or impossible for them to effectively access standard printed text and compliant with Title II of the Americans with Disabilities Act, be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

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

SECTION I. Section 86 of Chapter 54 is hereby amended as follows:

By striking, in lines 17 through 20, the words “a registered physician who is personally acquainted with the voter and aware of his permanent physical disability, stating that it is reasonably certain because of permanent physical disability” and replacing it with: “the voter stating that the voter has a qualifying disability under the Americans with Disabilities Act that is permanent and makes it reasonably certain.”

SECTION 2. Section 87 of Chapter 54 is hereby amended by striking, in line 3, the word "papers" and inserting after subsection (a) the following:

(b) An authorized accessible blank electronic ballot, similar in content and appearance to the official ballot to be used at such election, except that they may be sent to the voter by electronic transmission, completed by the voter electronically using assistive technology, and submitted electronically and an accessible electronic affidavit that may be used for certification of an accessible electronic ballot and signed with a wet signature, with a hand-drawn electronic signature or with the voter's typewritten name as a signature, if the voter is unable to independently insert a hand-drawn signature into ballot due to a disability.

SECTION 3. Section 89 of Chapter 54 is hereby amended as follows:

By inserting after the first sentence of the first paragraph, beginning in line 4, ", provided that such form is available consistent with accommodations for voters with disabilities provided in section ninety-eight of this chapter."

By inserting, in line 22, ", transmitted electronically," to the first line of the third paragraph after the word "mailed."

SECTION 4. Section 91B of Chapter 54 is hereby amended by striking, in line 4, " and (c)" and replacing it with ", (c) and (d)" and inserting after subsection (c) the following subsection:

(d) To an absent voter who has a disability and has been granted the accommodation pursuant to section ninety-98 of this chapter, whether the voter is approved as an absent voter per the conditions specified in section eighty-six of this chapter as a patient or resident as at

designated health care facility, as defined in section twenty-five B of chapter one hundred and eleven, the accessible electronic ballot and accompanying accessible electronic affidavit for certification may be transmitted electronically.

SECTION 5. Section 92 of Chapter 54 is hereby amended by inserting after the existing language the following:

A voter who has received an authorized accessible blank electronic ballot pursuant to clause (b) of the first paragraph of section eighty-seven that has been electronically transmitted as an accommodation pursuant to section ninety-eight of this chapter shall electronically mark it in the presence of no other person. The voter shall then:

(i) complete and execute the accessible electronic affidavit for certification provided pursuant to clause (b) of the first paragraph of section eighty-seven and section ninety-eight and return the ballot and affidavit by electronic submission, or by enclosing and sealing the ballot and affidavit in the envelope provided pursuant to clause (c) of the first paragraph of section eighty-seven and section ninety-eight and returning the envelope by mail or delivery as provided by subsections (a), (b) or (c) of this section; or

(ii) enclose and seal the ballot in the envelope in the envelope provided pursuant to clause (b) of the first paragraph of section eighty-seven and section ninety-eight to clause (c) of the first paragraph of section eighty-seven and section ninety-eight and returning the envelope by mail or deliver as provided by subsection (a), (b), or (c) of this section.

SECTION 6. Section 98 of Chapter 54 is hereby amended by inserting after the existing language the following:

An absent voter who needs an accommodation by reason of disability to vote privately and independently may request such accommodation from the state secretary. Upon receiving information from the absent voter pursuant to the application in Section 89 of this Chapter, by phone, or electronically, the state secretary shall grant accommodations to the voter. Accommodations shall include, but not be limited to:

(i) an accessible blank application for an authorized absent voting ballot that can be completed by the voter electronically, signed with a wet signature, with a hand-drawn electronic signature or with the voter's typewritten name as a signature, if the voter is unable to independently insert a hand-drawn signature into ballot due to a disability, and submitted electronically, by mail, or be delivery;

(ii) clear and electronic accessible instructions for completion, submission electronically or printing and returning of the ballot;

(iii) an authorized accessible blank electronic ballot that can be filled out electronically, signed and submitted electronically or printed, signed and returned via mail; but the accessible electronic ballot marking system the voter utilizes to access their blank electronic ballot shall not collect or store any personally identifying information obtained in the process of filling out the ballot;

(iv) an accessible electronic affidavit that may be used for certification of an accessible electronic ballot and signed with a wet signature, with a hand-drawn electronic signature or with the voter's typewritten name as a signature, if the voter is unable to independently insert a hand-drawn signature into ballot due to a disability;

(v) an envelope to return the ballot to the voter's town or city clerk for use if returning a ballot by mail or delivery; and

(vi) hole punched markers on the envelope marking the place for a wet signature for certification if the electronic affidavit of certification is not utilized.

The state secretary is responsible for creation and implementation of all processes required for the provision of the above accommodations for all primaries and elections. The electronic instructions and accommodations in this section shall comply with requirements contained in Title II of the federal Americans with Disabilities Act and shall conform to the Web Content Accessibility Guidelines (WCAG) 2.1 AA and the National Institute of Standards and Technology report titled "Principles and guidelines for remote ballot marking systems." If printing the ballot, the voter shall place the ballot in the envelope provided by the state secretary. A voter with accommodations in receipt of a ballot pursuant to this section may complete and return the ballot by submitting it electronically, or by delivering it in person or by a family member, to the office of the appropriate city or town clerk or a secured municipal drop box, or by mailing it to the appropriate city or town clerk.