HOUSE DOCKET, NO. 3240 FILED ON: 2/18/2021

# HOUSE . . . . . No. 834

## The Commonwealth of Massachusetts

PRESENTED BY:

***Thomas M. Stanley***

*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 expanding voting options.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *Thomas M. Stanley* | *9th Middlesex* | *2/18/2021* |
| *Michelle L. Ciccolo* | *15th Middlesex* | *2/26/2021* |
| *Carmine Lawrence Gentile* | *13th Middlesex* | *3/1/2021* |
| *Kate Lipper-Garabedian* | *32nd Middlesex* | *3/10/2021* |
| *Elizabeth A. Malia* | *11th Suffolk* | *3/15/2021* |
| *Michelle M. DuBois* | *10th Plymouth* | *4/8/2021* |
| *James B. Eldridge* | *Middlesex and Worcester* | *4/29/2021* |
| *Jack Patrick Lewis* | *7th Middlesex* | *7/23/2021* |

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# HOUSE . . . . . No. 834

By Mr. Stanley of Waltham, a petition (accompanied by bill, House, No. 834) of Thomas M. Stanley and others relative to expanding voting options. Election Laws.

## The Commonwealth of Massachusetts

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

An Act relative to expanding voting options.

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

SECTION 1. Chapter 54 of the General Laws is hereby amended by striking out section 25B, as most recently amended by section 2 of chapter 115 of the acts of 2020, and inserting in place thereof the following section:-

Section 25B. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Application", an application to vote early by mail.

"Central registry", the central registry of voters established pursuant to section 47C of chapter 51.

"Qualified voter" or "voter", a voter qualified pursuant to section 1 of chapter 51.

"State secretary," the secretary of the commonwealth.

(b) The election officers and registrars of every city or town shall allow any qualified voter to cast an early ballot by mail or in person for any primary or biennial state election as set forth in this section including, but not limited to, any city or town election held at the same time.

(c)(1) The state secretary shall, not later than 7 weeks before a primary or biennial election, mail to all registered voters who registered to vote not later than 9 weeks before the primary or biennial election, at their residential addresses or mailing addresses if different from their residential addresses listed in the central registry, an application for said voter to be permitted to vote early by mail for the primary or biennial election; provided, however, that the state secretary shall not send an application to any voter whose previous application for an absent or early ballot for the primary or biennial election or for all elections in the calendar year has been accepted.

(2) The election officers and registrars of every city or town shall include an application for a voter to be permitted to vote early by mail with the acknowledgement notice sent to any person registering to vote or changing their voter registration address: (i) 9 weeks before and 2 weeks before the primary election; and (ii) 9 weeks before and 2 weeks before the biennial election.

(3) The applications required pursuant to this subsection shall be in a form prescribed by the state secretary in accordance with state and federal law; provided, however, that said applications shall: (i) include clear instructions for completing and returning the application; (ii) allow a voter to designate the mailing address to which the ballot shall be sent; and (iii) be pre-addressed to the local election official with postage guaranteed.

(4)(i) Each application mailed pursuant to this subsection shall be provided in any language required by the bilingual election requirements of the federal Voting Rights Act, 52 U.S.C. § 10503.

(ii) Each application mailed to a voter in the city of Boston pursuant to this subsection shall include an option, which shall appear prominently on the application, to request a ballot printed in any language available at the voter's polling location pursuant to chapter 166 of the acts of 2014.

(5) The applications required pursuant to this subsection shall be made available on the websites of the state secretary and the election officers and registrars of every city or town.

(d) A voter wishing to apply to vote early by mail in the primary or biennial election and who needs accommodation by reason of disability may request such accommodation from the state secretary. Upon receiving information from the voter pursuant to the application in subsection (c) either by phone or electronically, the state secretary shall grant accommodations to the voter. Accommodations shall include, but not be limited to: (i) clear and electronic accessible instructions for completion, printing and returning of the ballot; (ii) an authorized accessible blank electronic ballot that can be filled out electronically, printed and signed; provided, however, that 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; (iii) an envelope to return the ballot to the voter's town or city clerk; and (iv) hole punched markers in place of a wet signature required for certification. 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.” Upon printing the ballot, the voter shall place the ballot in the envelope provided by the state secretary. A voter with accommodations in receipt of an early voting ballot for the primary or general election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

(e) A voter wishing to vote early by mail in the primary or biennial election shall complete the application to vote early by mail and shall return said application to the appropriate city or town clerk. Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting in the primary or biennial election shall be given the same effect as an application made in the form prescribed by the state secretary. Applications to vote early by mail for the primary or biennial election shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature. No application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before noon on the last day of the early voting period as prescribed in subsection (f).

(f) (1) The voting period for in person early voting shall run from the eleventh business day preceding the primary or biennial election until the close of business on the business day preceding the business day before the election; provided, however, that if the eleventh business day before the primary or biennial election falls on a legal holiday, the early voting period shall begin on the first business day prior to the legal holiday. The voting period for early voting by

mail shall begin as soon as all necessary early voting materials have been received by the local election official pursuant to subsection (g).

(2) Early voting in person shall be conducted for the primary election on the Saturday and Sunday immediately preceding the primary election and for the biennial election on the 2 Saturdays and Sundays immediately preceding the biennial election as follows: (i) for municipalities with fewer than 5,000 registered voters, for a period of a minimum of 2 hours each day; (ii) for municipalities with 5,000 or more registered voters but fewer than 20,000 registered voters, for a period of a minimum of 4 hours each day; (iii) for municipalities with 20,000 or more registered voters but fewer than 40,000 registered voters, for a period of a minimum of 5 hours each day; (iv) for municipalities with 40,000 or more registered voters but fewer than 75,000 registered voters, for a period of a minimum of 6 hours each day; and (v) for municipalities with 75,000 or more registered voters, for a period of a minimum of 8 hours each day. For each other day during the early voting period, early voting shall be conducted during the usual business hours of each city or town clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this paragraph.

(g)(1) Not later than 4 weeks prior to the primary and biennial elections, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (i) official absentee and early voting ballots for the primary or biennial election, similar to the official ballot to be used at the primary or biennial election; provided, however, that a sufficient quantity of such ballots are printed in the languages necessary to accommodate the selection of a bilingual ballot by voters pursuant to paragraph (4) of subsection (c); (ii) envelopes of sufficient size to contain the ballots specified in clause (i) bearing on their reverse the voter's affidavit in compliance with regulations promulgated

pursuant to this chapter, which shall include a notice of penalties under section 26 of chapter 56; (iii) return envelopes for any ballot requested for voting by mail pre-addressed to the local election official with postage guaranteed; and (iv) instructions for voting by mail to be sent to each voter who requests to cast a ballot by mail.

(2) Early voting ballots for voting by mail authorized pursuant to this section shall be mailed by the city or town clerk to voters as soon as such materials are available; provided, however, that said mailing shall include: (i) instructions for early voting; (ii) instructions for completing the ballot; (iii) an inner envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter; and (iv) an outer envelope that is pre-addressed to the local election official with postage guaranteed; provided, however, that a voter who has seasonably filed an application may receive an early voting ballot in person at the office of the city or town clerk. The state secretary shall include on the outer envelope with postage guaranteed required by this section a system which generates a postmark for determining the date upon which the envelope was mailed. Each early voting ballot authorized pursuant to this section shall be provided to the voter in the language required pursuant to paragraph (4) of subsection (c).

(h) (1) A qualified voter in receipt of an early voting ballot for voting by mail in the primary or biennial election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

(2) All early voting ballots submitted by mail, delivered in person to the office of the city or town clerk or returned to a secured municipal drop box as provided by this section shall be

received by the city or town clerk before the hour fixed for closing the polls on the day of the primary or biennial election; provided, however, that an early voting ballot cast for the biennial election that is received not later than 5 P.M. the third business day after the biennial election and mailed on or before the day of the biennial election shall be processed in accordance with the second paragraph of section 95 of this chapter. A postmark, if legible, shall be evidence of the time of mailing.

(i) Notwithstanding subsection (o) or any general or special law to the contrary, any absent ballot cast pursuant to section 86 of this chapter or any early voting ballot cast pursuant to this section may be deposited into a tabulator or a ballot box in a municipality or precinct that uses paper ballots in advance of the date of the primary or biennial election. All ballots received pursuant to this section may be opened in advance of the date of the primary or biennial election, in accordance with regulations promulgated by the state secretary; provided, however, that such ballots shall be kept secured, locked and unexamined, and that no results shall be determined or announced until after the time polls close on the date of the primary or the general election. Disclosing any such result before such time shall be punished as a violation of section 14 of chapter 56.

(j)(1) Each city and town shall establish an early voting site for the primary election and an early voting site for the biennial election that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting in either the primary election or biennial election, the registrars of each city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within that city or town as an early voting site. A city or town may also provide for additional early voting sites for the primary election or biennial election at the

discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities in accordance with federal law.

(2) The designation of early voting sites for the primary and biennial elections shall be made not less than 14 days prior to the beginning of the early voting period established in subsection (f). Not less than 7 days prior to the beginning of the early voting period, and at least once during the voting period, the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted: (i) in the office of the city or town clerk or on the principal official bulletin board of each city or town; (ii) on any other public building considered necessary; (iii) on the city or town's website, if any; and (iv) on the website of the state secretary.

(k) A voter voting early in person shall be provided with a ballot and an envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter. A voter voting early in person shall complete an affidavit under the regulations promulgated pursuant to this act, which shall include a notice of penalties under section 26 of chapter.

(l) Prior to the beginning of early voting, the registrars for each city or town shall prepare a list for the early voting sites, containing the names and residences of all persons qualified to vote at each voting site, as the names and residences appear upon the annual register, and shall reasonably transmit the applicable list to the election officers at each early voting site designated by the registrars.

(m) The registrar or presiding official at the early voting site shall cause to be placed on the voting lists opposite the name of a qualified voter who participates in early voting the letters "EV" designating an early voter.

(n) The registrars shall prepare lists of all voters casting ballots during the early voting period and update the voter list in a manner prescribed by the state secretary.

(o) The counting of early voting ballots including, but not limited to, informing election officers and any challengers present under section 85A shall be set by regulations promulgated under this chapter. All envelopes referred to in this section shall be retained with the ballots cast at the election and shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(p) The state secretary shall promulgate regulations to implement this section including, but not limited to, advance depositing of ballots, a process for establishing additional early voting locations and a process for applying for, receiving, separating, compiling, recording and securing early voter ballots.

(q) Section 72 shall not apply to this section; provided, however, that a city or town may opt to detail a sufficient number of police officers or constables for each early voting site at the expense of the city or town to preserve order, protect the election officers and supervisors from any interference with their duties and aid in enforcing the laws relating to elections.

(r) Notwithstanding section 100 of this chapter, the absentee or early ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote by reason by death after casting the ballot. For the purposes of this subsection, the term "cast" shall mean that the voter has: (i) deposited the

absentee or early ballot in the mail for ballots mailed; (ii) returned the absentee or early ballot to the appropriate election official either by hand or by depositing in the municipal drop box, where available; or (iii) completed voting in person at the clerk's office or an early voting location.

(s) Sections 37 and 38 of chapter 53 shall apply to unenrolled voters and voters enrolled in political designations voting early in a primary election. The registrar or presiding official at the early voting site shall cause the name of the party of the ballot being voted to be recorded on the voting list. Once the party selection has been recorded on the voting list, a voter cannot request or vote on the ballot of another party.

SECTION 2. Section 89 of said chapter 54, as appearing in the 2018 Official Edition, is hereby amended by adding the following sentence:- Applications shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature.