SENATE DOCKET, NO. 39 FILED ON: 1/11/2021

SENATE . . . . . No. 484

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

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 modernizing access and improving laws in voting.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Rebecca L. Rausch	*Norfolk, Bristol and Middlesex*	
Maria Duaime Robinson	*6th Middlesex*	*1/11/2021*
Sonia Chang-Diaz	*Second Suffolk*	*1/19/2021*
Danillo A. Sena	*37th Middlesex*	*1/28/2021*
Jason M. Lewis	*Fifth Middlesex*	*2/5/2021*
David Henry Argosky LeBoeuf	*17th Worcester*	*2/8/2021*
Jack Patrick Lewis	*7th Middlesex*	*2/9/2021*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/9/2021*
Steven C. Owens	*29th Middlesex*	*2/9/2021*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/10/2021*
Vanna Howard	*17th Middlesex*	*2/11/2021*
James B. Eldridge	*Middlesex and Worcester*	*2/16/2021*
Marcos A. Devers	*16th Essex*	*2/16/2021*
Michael O. Moore	*Second Worcester*	*2/23/2021*
Erika Uyterhoeven	*27th Middlesex*	*2/26/2021*

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By Ms. Rausch, a petition (accompanied by bill, Senate, No. 484) of Rebecca L. Rausch, Maria Duaime Robinson, Sonia Chang-Diaz, Danillo A. Sena and other members of the General Court for legislation to modernize access and improving laws in voting. Election Laws.

The Commonwealth of Massachusetts

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

An Act modernizing access and improving laws in voting.

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. Section 44 of Chapter 51 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended in line 7 by inserting after the words “voter registration.” the following sentence:- A person registering as a voter may, at the same time, establish their status as a permanent mail voter, as provided in section 25C of chapter 54, by indicating their desire to elect such status on the affidavit of voter registration.

SECTION 2. Chapter 51 of the General Laws, as so appearing, is hereby amended by striking section 47C in its entirety and inserting in place thereof the following section:-

Section 47C. Central registry of voters; agreement with Electronic Registration Information Center, Inc.

(a) Subject to appropriation, the secretary of state shall maintain a central registry of voters in accordance with this section.

(b) Information contained in the central registry shall be provided by the registrars or equivalent in the commonwealth's cities and towns.

(c) The central registry shall contain, without limitation, the following information about each registered voter in the commonwealth:

(1) Full name;

(2) Former name, if any;

(3) Residential address;

(4) Date of birth;

(5) Political party enrollment or designation; and

(6) Effective date of registration.

(d) The central registry may contain, without limitation, the following information about residents of the Commonwealth age 16 and over:

(1) Full name;

(2) Former name, if any;

(3) Residential address on January first in the current year;

(4) Residential address on January first in the preceding year;

(5) Date of birth;

(6) Occupation;

(7) Veteran status; and

(8) Nationality, if not a citizen of the United States.

(e) The central registry shall be digitally maintained using the most advanced applicable technology reasonably available to the state secretary.

(f) The information contained in the central registry pursuant to paragraph (c) shall be:

(1) available to state party committees, statewide candidate committees, state ballot question committees, the jury commissioner, adjutant general and any other individual, agency or entity that the state secretary shall designate by regulation consistent with the purposes of this section, at a fair and reasonable cost not to exceed the cost of printing in hard copy, if requested, or issuing computer-readable data files; and

(2) provided by the state secretary to the election officials at each polling place in the commonwealth in digital format sufficient to allow for designated election officials to conduct real-time searches of the registry and to modify a voter's registration information upon presentation by the voter of appropriate documentation to justify the modification.

(g) The state secretary shall use all reasonable efforts to secure federal funding to maintain the central registry consistent with the provisions of this section and provide its information as required in paragraph (f)(2).

(h) The state secretary shall adopt regulations governing the operation of the central registry consistent with the provisions of this section.

(i) Not later than April 30, 2021, the state secretary shall enter into an agreement with the Electronic Registration Information Center, Inc. on behalf of the commonwealth that shall

specify the terms and conditions of the commonwealth's membership in the Center. The agreement shall include terms providing for the periodic sharing of data between the central registry, the registry of motor vehicles and any other automatic voter registration agency as designated by the secretary, and the Center, including, but not limited to, voter names and addresses.

(j) The state secretary shall certify compliance with paragraph (i) not later than May 3, 2021, and file such certification with the clerks of the senate and house of representatives and the chairs of the joint committee on election laws. Should the secretary fail to comply with the requirements of paragraph (i), the state secretary shall instead file a report detailing the specific reasons for such noncompliance, as well as all specific efforts undertaken by the state secretary or any of their representatives or designees to achieve compliance with paragraph (i) in each of the calendar years 2018, 2019, 2020, and 2021.

SECTION 3. Section 65 of Chapter 51 of the General Laws, as so appearing, is hereby amended by striking out subparagraph (3) of paragraph (d) and inserting in place thereof the following:-

(3) The registrars shall notify each person under paragraph (1) of the person’s opportunity to: (i) decline to register to vote; (ii) adopt a political party affiliation, in which case the person shall also sign an eligibility requirement acknowledgement and attestation; and (iii) become a permanent mail voter as provided in section 25C of chapter 54. Such notification shall be provided in English and Spanish and any additional languages to be determined by the state secretary. The registrars shall include with such notification a postage guaranteed permanent mail voter status request form, as provided in section 25C of chapter 54.

SECTION 4. Chapter 53 of the General Laws is hereby amended by striking out the first paragraph of section 28 and inserting in place thereof the following paragraph:-

State primaries shall be held on the second Tuesday in June in even-numbered years and on the fourth Tuesday preceding special state elections, except that primaries before special elections for senator or representative in congress shall be held on the sixth Tuesday preceding said elections. If a religious holiday falls on or immediately before the second Tuesday in June in an even-numbered year, the state primary shall be held on a date set by the general court within seven days of the second Tuesday in June. The state secretary shall publish the date of the state primary not later than February 1 of each even-numbered year by: (i) providing notice of the date to the state parties; (ii) filing notice with the state publications and regulations division; (iii) posting the information on the website of the state secretary; and (iv) any other means necessary to ensure proper notification. Presidential primaries shall be held on the first Tuesday in March in any year in which presidential electors are to be elected. Notwithstanding any provision of law to the contrary, any town may hold its preliminary or regular town elections on the same date designated as the date to hold a presidential primary, in any year in which presidential electors are to be elected, or a state primary, in any even-numbered year, provided that such election is by a ballot independent of the ballot used for a presidential primary or state primary. City and town primaries before all city and town elections shall be held on the twenty-eighth day preceding such elections.

SECTION 5: Section 24 of chapter 54 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out the word “aldermen” each time it appears and inserting in place thereof the words:- city council; and further amended by striking out the word “selectmen” each time it appears and inserting in place thereof the words:- select board or town

council; and further amended by adding the following sentence:- The board of election commissioners in the city of Boston, the city council in any other city or the select board or town council in any town shall designate at least one polling place located within one mile of any public or private institution of higher education located within the geographical limits of the city or town, including without limitation any community college as defined in section 10 of chapter 15A.

SECTION 6. Section 25B of chapter 54 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out paragraphs (b) and (e), and further amended by adding to paragraph (a) the following sentence:- A municipality's select board, town council or city council may, upon recorded and public vote, further authorize in-person early voting pursuant to this section for any other annual or special municipal or state primary or election.

SECTION 7. Chapter 54 of the General Laws, so appearing, is hereby amended by inserting after section 25B the following section:-

Section 25C. Voting by mail and permanent mail voter status.

(a) The election officers and registrars of every city or town shall allow any qualified voter, as defined in section 1 of chapter 51, to cast a mail ballot for any annual or special municipal or state primary or election as set forth in this section.

(b) Any qualified voter may opt to vote by mail by: (1) filing with their local election official a mail voting application in a form prescribed by the state secretary and made available in paper and electronic formats; or (2) submitting a mail voting application using the secure online portal provided by the state secretary pursuant to paragraph (d). Mail voting applications shall be acceptable if they are signed or submitted electronically without signature. A mail voting

application shall be deemed to be seasonably filed if received in the office of the city or town clerk or registrars of voters before 5 P.M. on the Thursday prior to the primary or election; provided, however, that a mail ballot may be requested and received in person consistent with paragraph (f) after 5 P.M. on the Thursday prior to the primary or election and before 5 P.M. on the day prior to the primary or election during regular operating hours.

(c)(1) Any qualified voter may become a permanent mail voter by:

(i) filing with the state secretary a permanent mail voter status request in a form prescribed by the secretary and made available in paper and electronic formats;

(ii) indicating their request to establish permanent mail voter status on an affidavit of registration as provided in section 44 of chapter 51; or

(iii) opting into permanent mail voter status using the secure online portal provided by the state secretary pursuant to paragraph (d).

(2) A voter who opts to become a permanent mail voter pursuant to this paragraph shall be treated as having completed and returned a mail voting application for each annual or special municipal or state primary or election for which they remain qualified to vote. A voter who has opted to become a permanent mail voter may choose to receive their mail ballot at an address other than the residential address listed in the central registry of voters using the secure online portal provided by the state secretary pursuant to paragraph (d). A permanent mail voter who is not enrolled in a political party may select their desired political party primary ballot using the secure online portal provided by the state secretary pursuant to paragraph (d); provided, however, that a permanent mail voter who is not enrolled in a political party will not receive a primary mail ballot unless such selection is made.

(3) Any registered voter who requested and cast a vote by mail ballot in both the 2020 state primary and 2020 election shall be automatically enrolled as a permanent mail voter pursuant to this section.

(4) A voter may terminate their status as a permanent mail voter at any time by: (i) filing with the state secretary a permanent mail voter termination request in a form prescribed by the secretary and made available in paper and electronic formats; or (ii) so indicating using the secure online portal provided by the state secretary pursuant to paragraph (d).

(d) The state secretary shall implement and maintain a secure online portal to allow any qualified voter to: (i) submit a mail voting application; (ii) establish or terminate their status as a permanent mail voter; (iii) select a desired political party primary ballot, if the voter is not enrolled in a political party; and (iv) request a vote by mail ballot be sent to a mailing address other than the voter's address on file in the central registry of voters. The portal system shall not require the voter's signature.

(e) A voter wishing to apply to vote by mail or establish or terminate permanent mail voter status who needs accommodation in the application, request, or voting processes by reason of disability may request such accommodation(s) from the state secretary. Upon receiving information from the voter consistent with the application and request provisions in this section 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 a vote by mail 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.

(f) Local election officials shall deliver vote by mail ballots to voters as soon as such materials are available; provided, however, that said mailing shall include: (i) instructions for voting by mail; (ii) instructions for completing the vote by mail ballot; (iii) an inner envelope in which the ballot is placed after voting containing an affidavit in compliance with the requirements of paragraph (j) of section 25B of chapter 54 of the General Laws, to be completed by the voter or appropriate designee; and (iv) an outer envelope that is pre-addressed to the local election official with postage guaranteed; provided further, that a voter may request a vote by mail ballot and accompanying papers in person at the office of the local election official, and may complete and return said ballot in person as part of the same transaction.

(g) A voter in receipt of a vote by mail ballot pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate local election official; (ii) dropping it in a secured municipal ballot drop box; (iii) mailing it to the appropriate local election official; or (iv) delivering it in person to their regular polling place prior to the closing of the polls on a primary or election day.

(h) Each municipality shall maintain at least one secured municipal ballot drop box in a public location that is accessible to voters for not less than twelve hours each day, including business hours. A municipality with more than twenty-five thousand registered voters shall maintain at least one secured municipal ballot drop box for each twenty-five thousand registered voters during any voting by mail period. Locations for municipal ballot drop boxes shall be selected by the select board, town council or city council to prioritize, to the extent feasible: (i) proximity to public transportation and availability of parking; (ii) equitable distribution across population centers; (iii) access for persons with disabilities; and (iv) use of public buildings. A municipality shall maintain such ballot drop boxes from the earliest date that ballots become available to voters through the hour fixed for the closing of the polls for any annual or special municipal or state primary or election. A municipality with fewer than five thousand voters in excess of any twenty-five thousand registered voter increment may apply to the state secretary for waiver of the requirement to maintain an additional secured municipal ballot drop box for such population. The state secretary shall grant a waiver application made under this paragraph upon a determination that such waiver would serve the public interest.

(i) The registrars or local election officials shall prepare lists of all voters casting ballots by mail pursuant to this section. The registrar or other designated election official shall cause to be placed on the voting lists opposite the name of a qualified voter who requests a vote by mail ballot by mail the letters “EV,” but shall not strike out the voter’s name unless the voter’s ballot has been received by the local election official. The official or designee shall strike out the voter’s name upon receipt and processing of the vote by mail ballot. A qualified voter who has requested but not returned an early voting by mail ballot may vote in person in any annual or special municipal or state primary or election.

(j) All mail voting ballots delivered in person to the office of the local election official, returned to a secured municipal drop box, or returned in person to a voter's regular polling place on the date of a primary or election as provided in this section shall be received by the local election official before the hour fixed for closing the polls. A vote by mail ballot submitted by mail that is mailed on or before the date set for the primary or election and received by the local election official not later than 5 P.M. on the tenth day following the primary or election shall be processed in accordance with the second paragraph of section 95 of chapter 54. A postmark, if legible, shall be evidence of the time of mailing.

(k) Notwithstanding any general or special law to the contrary, any vote by mail ballot cast pursuant to this section may be opened in advance of the applicable annual or special municipal or state primary or general election, and deposited into a tabulator or a ballot box in a municipality or precinct that uses paper ballots in advance of the date of the applicable annual or special municipal or state primary or general election or at any time following the closing of the polls on the date of a municipal or state primary or general election; 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.

(l) All envelopes referred to in this section shall be retained with the ballots cast at the primary election and shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(m) The department of corrections, in conjunction with the state secretary and local elections officials, shall ensure that eligible voters who are incarcerated shall have access to voting by mail. No incarcerated individual who is eligible to vote shall be deprived of a mail voting application, a vote by mail ballot, a writing implement sufficient to properly complete the vote by mail ballot, or the ability to return the ballot by mail. Notwithstanding any special or general law to the contrary, no employee, contractor, agent, official, or representative of the department of corrections shall open or inspect any outgoing completed mail voting application or vote by mail ballot. The department of corrections shall convey to the federal postal authorities any outgoing completed mail voting application or vote by mail ballot within 24 hours of collection, except on Sundays or postal holidays.

(n) The state secretary shall promulgate regulations to implement this section.

SECTION 8. Section 72 of chapter 54 of the General Laws, so appearing, is hereby amended by striking out the word “shall” and inserting in place thereof the following words:- may opt to.

SECTION 9. Not later than June 30, 2022, the state secretary shall mail to all registered voters at their residential addresses, or mailing addresses if different from their residential addresses listed in the central registry of voters, a permanent mail voter status request form as provided in section 25C of chapter 54, unless the voter previously established their status as a permanent mail voter. The mailing shall: (i) include clear instructions for completing and returning the application; (ii) allow a voter to designate the mailing address to which their ballots shall be sent; and (iii) be pre-addressed to the local election official with postage guaranteed.

SECTION 10. Not later than June 30, 2022, the state secretary shall conduct a public awareness campaign to inform voters throughout the commonwealth of the provisions of this act, including, but not limited to, measures to promote public awareness of permanent mail voter status and expanded mail voting options. The public awareness campaign shall be linguistically diverse and culturally competent and shall include, but not be limited to, outreach through digital and social media.

SECTION 11. Chapter 149 of the general laws is hereby amended by striking out section 178 and inserting in place thereof the following section:-

Section 178. Paid leave of absence from work for voting.

(a) For purposes of this section, the terms "employer" and “employee” shall be defined as in section 1 of chapter 175M.

(b) An employee who is eligible to vote shall be entitled, upon request, to take two hours of paid leave to be used for the purpose of casting a ballot in any annual or special municipal or state primary or election. An employee may elect to take their two hours of paid voting leave at any point during the early voting period provided in section 25B of chapter 54, the mail voting period provided in section 25C of chapter 54, or on the date of a primary or election.

(c) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, the right to take paid voting leave under this section as a negative factor in any employment action such as evaluation, promotion, disciplinary action or termination, or otherwise subjecting an employee to discipline for the use of paid voting leave under this section.