

SENATE No. 459

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 fostering voter opportunities, trust, equity and security.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/10/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/10/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/10/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/10/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/10/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/12/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/12/2021</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>2/12/2021</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>2/16/2021</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>2/16/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/16/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/16/2021</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/16/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/16/2021</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/17/2021</i>
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	<i>2/18/2021</i>

<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/18/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>2/19/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/22/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/22/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/23/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>2/24/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/24/2021</i>
<i>Adam J. Scanlon</i>	<i>14th Bristol</i>	<i>2/25/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/2/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/2/2021</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/2/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/10/2021</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>3/10/2021</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>3/10/2021</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>3/15/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/18/2021</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>3/18/2021</i>
<i>Adam Gomez</i>	<i>Hampden</i>	<i>3/18/2021</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>3/29/2021</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>4/1/2021</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>5/5/2021</i>

SENATE No. 459

By Ms. Creem, a petition (accompanied by bill, Senate, No. 459) of Cynthia Stone Creem, Eric P. Lesser, Jason M. Lewis, Thomas M. Stanley and other members of the General Court for legislation to foster voter opportunities, trust, equity and security. Election Laws.

The Commonwealth of Massachusetts

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

An Act fostering voter opportunities, trust, equity and security.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately foster voting opportunities trust, equity and security, including for elections occurring in the near future, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Section 1F of chapter 51 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out, in line XX, the word “twentieth” and
3 inserting in place thereof the following word:- tenth.

4 SECTION 2. Section 22A of said chapter 51 is hereby repealed.

5 SECTION 3. Section 26 of said chapter 51, as appearing in the 2018 Official Edition, is
6 hereby amended by striking out, in line XX, the words ”twentieth day preceding such election
7 and no later than eight o'clock in the evening on the tenth day preceding a special town meeting”
8 and inserting in place thereof the following words:- tenth day before the election.

9 SECTION 4. Said chapter 51 is hereby further amended by inserting after section 34 the
10 following section:-

11 Section 34A. (a) An individual who is eligible to vote may register as a voter by
12 appearing in person at the polling place, during the hours it is open for voting, for the precinct in
13 which the individual is a resident, or by appearing in person at an early voting site for the city or
14 town in which the individual is a resident during the hours it is open for voting, by completing an
15 affidavit of registration, by presenting proof of residence, and by making a written oath which
16 shall be as follows: I certify that I: am a citizen of the United States; am at least 18 years old; am
17 not under guardianship that prohibits me from voting; am not temporarily or permanently
18 disqualified by law because of corrupt practices in respect to elections; have not and will not vote
19 in any other location within the commonwealth or elsewhere; and understand that giving false
20 information is a felony punishable by not more than 5 years imprisonment or a fine of not more
21 than \$5,000, or both.

22 (b) As used in this section, the term “proof of residence” means one of the following, so
23 long as it includes the name of the applicant and the address from which the registrant is
24 registering:

25 (i) a valid photo identification including, but not limited to, a Massachusetts driver’s
26 license or other state-issued identification card; or

27 (ii) other documentation demonstrating the name and address where the registrant is a
28 resident and seeks to register including, but not limited to, a copy of a current utility bill, bank
29 statement, government check, residential lease agreement, wireless telephone statement,
30 paycheck, other government document or correspondence, a current student fee statement or

31 other document from a post-secondary educational institution that verifies the student's current
32 address.

33 (c) Upon compliance with subsection (a), an election officer shall permit the registrant to
34 vote at that primary or election. Any person who registers to vote under this section shall be
35 registered as a voter at all later primaries and elections, subject to this chapter.

36 (d) A registrant who fails to present suitable proof of residence shall be permitted to
37 deposit a provisional ballot under section 76C of chapter 54, but shall within 2 business days
38 after the primary or within 6 days after the election present sufficient proof of residence to the
39 city or town clerk.

40 (e) The registrars may correct information supplied by the registrant to the extent
41 necessary to maintain the integrity of their records. If an affidavit is incomplete or if it appears
42 from the facts set forth in the affidavit that the registrant is not qualified to register as a voter, the
43 registrars shall proceed in accordance with section 47 of chapter 51 of the General Laws.

44 (f) As soon as practicable after the election, the registrars shall add the registrant's name,
45 address and effective date of registration to the annual register of voters.

46 (g) A registered voter shall not change party enrollment at a primary under this section.

47 (h) Upon credible information or allegation of illegal voter registration, or credible
48 information or allegation of illegal multiple voting, the attorney general or the appropriate
49 district attorney shall investigate the information or allegation. Nothing in this subsection shall
50 exclude enforcement by any means otherwise provided by law.

51 (i) Violations of this section shall be punished under sections 8, 26 and 27 of chapter 56.

52 SECTION 5. Section 42G½ of said chapter 51, as appearing in the 2018 Official Edition,
53 is hereby amended by inserting after the word “vote”, in line 57, the following words:- under
54 subsection (d) of section 65.

55 SECTION 6. Said section 42G½ of said chapter 51 of the General Laws, as so appearing,
56 is hereby amended by striking out subsection (d) and inserting in place thereof the following
57 subsection:-

58 (d) In accordance with the memorandum of understanding required by subsection (b),
59 each eligible applicant for services at an automatic voter registration agency who meets the
60 qualifications to register to vote and does not decline to register to vote under subsection (d) of
61 section 65 shall be registered as a voter under said section 65 as of the date the registrars add the
62 person’s name and address to the register of voters, pursuant to paragraph (4) of said subsection
63 (d) of said section 65; provided, however, that an applicant who meets the qualifications to
64 register to vote, does not decline to register to vote under said subsection (d) of said section 65
65 and completes a qualifying transaction with an automatic voter registration agency not less than
66 21 days before an election shall be entitled to vote in that election. If necessary to comply with
67 federal law, the division of medical assistance and the commonwealth health insurance connector
68 authority may allow an applicant to decline to

69 register to vote at the time of application. Otherwise, all automatic voter registration
70 agencies, including the registry of motor vehicles, shall transmit records of all eligible applicants
71 as provided in subsection (e), and these applicants may decline to register to vote only after
72 receiving notice from the registrars of voters under paragraph (3) of said subsection (d) of said
73 section 65.

74 SECTION 7. Chapter 54 of the General Laws is hereby amended by inserting after
75 section 16A the following section:-

76 Section 16B. Notwithstanding section 29 of chapter 53 and sections 11, 11B, 12 and 13
77 or any other general or special law to the contrary, for any primary or election, if the city or town
78 clerk determines in writing that there is a deficiency in the number of required election officers,
79 then the appointing authority may appoint election officers without regard to political party
80 membership, voter status, residence in the city or town or inclusion on a list filed by a political
81 party committee pursuant to said sections 11B and 12. If the position of the warden, clerk or
82 inspector, or the deputy of any such officer, if any, is vacant within the 3 weeks preceding the
83 primary or election, the city or town clerk may fill the vacancy by appointing a competent person
84 willing to serve, without regard to political party membership, voter status, residence in the city
85 or town or inclusion on a list filed by a political party committee pursuant to said sections 11B
86 and 12.

87 SECTION 8. Said chapter 54 is hereby further amended by striking out section 25B and
88 inserting in place thereof the following section:-

89 Section 25B. (a) A voter may vote early in person under this section:

90 (1) from the seventeenth day to the fourth day, inclusive, before a biennial state election,
91 and any city or town election held on the same day as a biennial state election;

92 (2) from the tenth day to the fourth day, inclusive, before a presidential or state primary
93 or special state election, and any city or town election held on the same day as a presidential or
94 state primary or special state election;

95 (3) during the 10 days before any other city or town election, but only if, and on days and
96 at times, approved by the city or town council or board of selectmen at least 14 days before any
97 such early voting begins, after consulting the city or town clerk.

98 (b) (1) Early voting shall be conducted during the usual business hours of the city or town
99 clerk. The registrars may provide for additional early voting hours beyond the hours required by
100 this section, including weekend hours.

101 (2) In addition, on Saturdays and Sundays during the early voting period before a regular
102 state primary, a presidential primary and a biennial state election, early voting shall be
103 conducted: (i) for municipalities with fewer than 5,000 registered voters, for at least 2 hours each
104 day; (ii) for municipalities with 5,000 or more registered voters but fewer than 20,000 registered
105 voters, for

106 at least 4 hours each day; (iii) for municipalities with 20,000 or more registered voters but
107 fewer than 40,000 registered voters, for at least 5 hours each day; (iv) for municipalities with
108 40,000 or more registered voters but fewer than 75,000 registered voters, for at least 6 hours each
109 day; and (v) for municipalities with 75,000 or more registered voters, for at least 8 hours each
110 day.

111 (c) The city or town clerk shall establish an early voting site that shall include the election
112 office for the city or town; but if the registrars determine that the office is unavailable or
113 unsuitable for early voting, the registrars shall identify and provide for an alternative centrally-
114 located, suitable and convenient public building within the city or town as an early voting site.
115 The registrars may also decide to provide for additional early voting sites. Each early voting site
116 shall be accessible to persons with disabilities.

117 (d) Even when no other early voting in person is allowed under this section, voters who
118 state that they will be absent from the city or town throughout the time when polls are open on
119 the day of a primary or election may vote early in person in the office of the city or town clerk,
120 during hours when it is open, until noon of the day before the primary or election.

121 (e) At least 21 days before each biennial state election, the state secretary shall deliver to
122 each city or town clerk, in quantities as the state secretary determines necessary, the following
123 papers: (1) official early voting ballots, similar to the official ballot to be used at the election; and
124 (2) envelopes of sufficient size to contain the ballots specified in clause (1) bearing on their
125 reverse the voter's affidavit in compliance with the requirements of subsection (g).

126 (f) An early voting ballot along with an envelope shall be provided to each voter who
127 participates in early voting.

128 (g) A voter casting a ballot shall complete an affidavit under the state secretary's
129 regulations, which shall include a notice of penalties under section 26 of chapter 56.

130 (h) Before the beginning of early voting, the registrars shall prepare a list for each early
131 voting sites, containing the names and residences of all voters of the city or town, as the names
132 and residences appear upon the annual register, and shall reasonably transmit this list to the
133 election officers at each early voting site.

134 (i) The election officers at the early voting site shall cause to be placed on the voting lists
135 opposite the name of a qualified voter who participates in early voting the letters "EV".

136 (j) The registrars shall prepare lists of all voters casting early voting ballots and update
137 the voting list in a manner prescribed by the state secretary.

138 (k) The counting of early voting ballots including, but not limited to, informing election
139 officers and any challengers present under section 85A shall be set by regulations of the state
140 secretary. All envelopes referred to in this section shall be retained with the ballots cast at the
141 election

142 and shall be preserved and destroyed in the manner provided by law for the retention,
143 preservation or destruction of official ballots.

144 (l) The state secretary shall adopt regulations to carry out this section including, but not
145 limited to, a process for applying for, receiving, separating, compiling, recording and securing
146 early voting ballots.

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

151 (n) Except as this section provides otherwise, the laws governing voting on election day
152 at polling places shall apply to early voting in person.

153 SECTION 9. Section 31 of said chapter 54, as appearing in the 2018 Official Edition, is
154 hereby amended by striking out the second paragraph.

155 SECTION 10. Section 37 of said chapter 54, as so appearing, is hereby amended by
156 adding the following paragraph:-

157 The state secretary may adopt regulations to carry out chapters 50 to 54, inclusive.

158 SECTION 11. Section 67 of said chapter 54, as so appearing, is hereby amended by
159 striking out the first, second, and third sentences and inserting in place thereof the following 3
160 sentences:- One voting list shall be delivered to the ballot clerks and, if the city or town clerk so
161 decides, another to the officer in charge of the ballot box. When a ballot is delivered to a voter,
162 the voter's name shall be checked on the first voting list and on any second list when the voter
163 deposits the ballot. If there is a second voting list, the officer in charge of the ballot box and the
164 officer in charge of the voting list shall be of different political parties.

165 SECTION 12. Section 83 of said chapter 54, as so appearing, is hereby amended by
166 striking out, in line 1, the words "Except where voting machines are used" and inserting in place
167 thereof the following words:- Where a voting list at the ballot box is used under section 67.

168 SECTION 13. Said chapter 54 is hereby further amended by striking out section 86 and
169 inserting in place thereof the following section:-

170 Section 86. A voter or a specially qualified voter may vote by mail ballot in any primary
171 or election in accordance with sections 87 to 103, inclusive.

172 SECTION 14. Said chapter 54 is hereby further amended by striking out section 89, as
173 amended by section 3 of chapter 115 of the acts of 2020, and inserting in place thereof the
174 following 2 sections:-

175 Section 89. (a) Any form of written communication evidencing a desire to have a mail
176 ballot be sent for use for voting at an election shall be given the same effect as an application
177 made in the form prescribed by the state secretary. An application may be submitted
178 electronically, but an electronic signature shall be written in substantially the same manner as a
179 handwritten signature. An application under this section may request a mail ballot for all

180 primaries and elections in the calendar year, or may request a mail ballot for all primaries and
181 elections indefinitely until the voter cancels the request or ceases to be an active or inactive voter
182 at the address of residence, and the secretary's forms shall include these options. No application
183 for a mail ballot shall be deemed to be seasonably filed unless it is received in the office of the
184 city or town clerk or registrars of voters on or before the fourth business day preceding the
185 election for which the ballot is being requested. An application by a voter admitted to a health
186 care facility after noon of the seventh day before the relevant election, as provided in subsection
187 (c) of section 91B, may be received until the time the polls close.

188 (b) Section 81 relative to spoiled ballots shall apply to mail ballots; but no request for a
189 substitute ballot from a voter who has received a ballot by mail shall be valid unless it is
190 accompanied by the spoiled ballot and received in the office of the city or town clerk before
191 noon on the day before the election for which the substitute mail ballot is requested.

192 (c) No ballot shall be mailed or delivered, as provided in section 91B, until an application
193 has first been filed and certified by the registrars and returned to the clerk, as provided in section
194 91.

195 (d) A family member of a person qualified to vote by mail ballot may apply in the same
196 manner on behalf of that person. The applicant shall state the applicant's relationship to the
197 absent voter, shall sign the application under the penalties of perjury, and shall transmit the
198 application to the clerk of the city or town of the mail voter's residence.

199 (e) The state secretary shall, not later than July 15 of every even-numbered year, mail to
200 all registered voters who registered to vote before July 1 at their residential addresses or mailing
201 addresses if different from their residential addresses listed in the central registry an application

202 for a mail ballot. The state secretary need not mail an application to a voter whose previous
203 application for a mail ballot for all elections in the calendar year has been accepted.

204 (f) The registrars of every city or town shall include an application for a mail ballot with
205 the acknowledgement notice sent to persons registering to vote or changing their voter
206 registration address on or after July 1 of every even-numbered year.

207 (g) Every application mailed under subsection (e) or (f) shall be pre-addressed to the city
208 or town clerk with return postage guaranteed. Every such application shall be provided in any
209 language required by the bilingual election requirements of the federal Voting Rights Act, 52
210 U.S.C. section 10503. Every such application mailed to a voter in the city of Boston shall include
211 an option, which shall appear prominently on the application, to request a ballot printed in any
212 language available at the voter's polling location pursuant to chapter 166 of the acts of 2014.

213 (h) Forms for the applications required by this section shall be made available on the
214 websites of the state secretary and the clerk or registrars of every city or town.

215 (i) A voter wishing to apply to vote by mail in a presidential or state primary or state
216 election and who needs accommodation by reason of disability may request such accommodation
217 from the state secretary. Upon receiving information from the voter pursuant to the application in
218 this subsection either by phone or electronically, the state secretary shall grant accommodations
219 to the voter. Accommodations shall include, but not be limited to: (i) clear and electronic
220 accessible instructions for completion, printing and returning of the ballot; (ii) an authorized
221 accessible blank electronic ballot that can be filled out electronically, printed and signed; but the
222 accessible electronic ballot marking system the voter utilizes to access their blank electronic
223 ballot shall not collect or store any personally identifying information obtained in the process of

224 filling out the ballot; (iii) an envelope to return the ballot to the voter’s town or city clerk; and
225 (iv) hole punched markers in place of a wet signature required for certification. The electronic
226 instructions and accommodations in this section shall comply with requirements contained in
227 Title II of the federal Americans with Disabilities Act and shall conform to the Web Content
228 Accessibility Guidelines (WCAG) 2.1 AA and the National Institute of Standards and
229 Technology report titled “Principles and guidelines for remote ballot marking systems.” Upon
230 printing the ballot, the voter shall place the ballot in the envelope provided by the state secretary.
231 A voter with accommodations in receipt of a ballot pursuant to this section may complete and
232 return the ballot by delivering it, in person or by a family member, to the office of the
233 appropriate city or town clerk or a secured municipal drop box, or by mailing it to the
234 appropriate city or town clerk.

235 (j) The state secretary shall establish, maintain, and implement an internet portal on the
236 secretary’s website to allow a qualified voter to request a mail ballot for presidential and state
237 primaries and state elections, to be mailed to the qualified voter’s home address or a different
238 mailing address as designated by the voter. The portal shall electronically update the central
239 registry of voters, notify the city or town clerk electronically, and eliminate multiple requests by
240 the same voter. Any request under this subsection shall not require the voter’s signature.

241 Section 89A. The officer in charge of a correctional facility, house of correction, or jail,
242 in this section called a facility, shall:

243 (a) not later than July 15 of an even-numbered year, display in prominent locations
244 visible to inmates of the facility, a poster of voting rights and procedures, prepared by the state
245 secretary;

246 (b) not later than July 15 of an even-numbered year, distribute to all inmates who may be
247 eligible to vote, written information about voting rights and procedures, prepared by the state
248 secretary;

249 (c) for all primaries and elections, assist inmates who may be eligible in registering as
250 voters and in applying for mail ballots, including as specially qualified voters, and distribute
251 forms for those purposes prepared by the state secretary;

252 (d) ensure the receipt, private voting, and return of mail ballots by eligible inmates;

253 (e) appoint a subordinate officer at the facility to supervise the actions required by this
254 section; and

255 (f) not later than 14 days before every presidential and regular state primary and biennial
256 state election, file a written report with the state secretary, detailing the actions taken under this
257 section, in a form prescribed by the state secretary. The report shall be a public record.

258 SECTION 15. Said chapter 54 is hereby further amended by striking out section 91 and
259 inserting in place thereof the following section:-

260 Section 91. When an application for a mail ballot is received by the clerk of a city or
261 town, the clerk shall transmit it to the registrars, who shall examine it and, if they find it to be
262 genuine and the applicant to be a duly registered voter or a family member of a duly registered
263 voter, shall execute the certificate thereon and return the application to the clerk. The clerk shall
264 cause to be placed on the voting lists prepared as required by section 60 of chapter 51, opposite
265 the name of each voter on whose application such certificate has been so executed, the letter M.
266 If the registrars do not execute the certificate, they shall immediately send the applicant written

267 notice to that effect, stating the reason, if possible by email, text, or telephone, and shall preserve
268 the application during the time fixed by law for the preservation of ballots cast in the coming
269 election, after which time the application shall be destroyed. The clerk shall prepare lists,
270 arranged by voting precincts, of the names and addresses of all voters on whose applications for
271 mail ballots the certificate has been executed as provided in this section, and shall post copies of
272 such lists for public inspection. An applicant for a mail ballot who has been furnished a
273 certificate of supplementary registration, as authorized by section 51 of chapter 51, shall submit
274 the certificate with the application, and the clerk shall cause to be placed on such certificate
275 opposite the name of the applicant the letter M. Every such certificate shall be securely affixed to
276 the voting lists required by section 60 of chapter 51 to be transmitted to the polling place for the
277 precinct where the applicant claims the right to vote and shall be considered a part thereof.

278 Section 59 of chapter 51 shall apply to applications for mail ballots, but the certificate
279 shall be issued by the city or town clerk.

280 SECTION 16. Section 91B of said chapter 54, as so appearing, is hereby amended by
281 inserting after the word "prepaid", in line XX, the following words:- and with return postage
282 guaranteed.

283 SECTION 17. Subsection (a) of section 92 of said chapter 54 is hereby further amended
284 by striking out the first sentence, as amended by section 5 of chapter 115 of the acts of 2020, and
285 inserting in place thereof the following sentence:- A voter who receives the ballot by mail, as
286 provided in subsection (a) of section 91B, may return it by mail to the city or town clerk in the
287 envelope provided pursuant to subsection (d) of section 87, or the voter or a family member may

288 deliver it in person to the office of the city or town clerk, to a secured municipal drop box, or to
289 an early voting site during the hours the site is open for voting under section 25B.

290 SECTION 18. Said chapter 54 is hereby further amended by striking out section 93 and
291 inserting in place thereof the following section:-

292 Section 93. All voted mail ballots shall be received by the city or town clerk before the
293 hour fixed for closing the polls. But ballots mailed on or before the day of a biennial state
294 election shall be received until 5:00 P.M. of the third day after that election. A postmark, if
295 legible, shall be evidence of the time of mailing.

296 SECTION 19. Section 94 of said chapter 54, as so appearing, is hereby amended by
297 striking out the first paragraph and inserting in place thereof the following paragraph:-

298 The city or town clerk, including a person designated by the clerk, shall open each
299 envelope purporting to contain a mail ballot as soon as possible after receiving it, in the view of
300 any persons who may be present. The clerk shall remove therefrom the inner envelope provided
301 for in clause (c) of the first paragraph of section 87 and, without opening the inner envelope,
302 compare the signature thereon with the signature on the application therefor, except if a family
303 member signed the application or if the voter applied through the portal provided by subsection
304 (j) of section 89 or if the voter received assistance in signing the application or the envelope, and
305 examine the affidavit on each such envelope. If the clerk finds that the affidavit has been
306 improperly executed, or does not sufficiently indicate that the ballot was marked and mailed or
307 delivered as required by sections 92 and 93, or except as provided in the preceding sentence was
308 not signed by the person who signed the application therefor, the clerk shall mark across the face
309 thereof "Rejected as defective", and shall place on the mail voting disposition list required by

310 section 91 or 91A, as the case may be, opposite the name of the voter the capital letter R. Each
311 envelope, so marked, all applications for mail ballots and all lists referred to in this section shall
312 be preserved and destroyed in the manner provided by law for the retention, preservation or
313 destruction of official ballots. If the clerk does not mark the envelope "Rejected as defective", the
314 clerk shall mark a check against the name of the voter on the mail voting disposition list required
315 by section 91 or 91A, as the case may be. The clerk shall record on tally sheets prepared and
316 furnished by the state secretary all envelopes, as well as accepted or rejected ballots of mail
317 voters; and, in cities and towns divided into voting precincts, a separate record shall be made for
318 each precinct.

319 SECTION 20. Said chapter 54 is hereby further amended by inserting after said section
320 94 the following section:-

321 Section 94A. Inner envelopes received by the clerk, and not marked "Rejected as
322 Defective" under section 94 or "Rejected as Voted in Person" under section 100, and envelopes
323 containing an early voting ballot under section 25B, may be opened before the day of the
324 primary or

325 election, and the enclosed ballot immediately deposited into a tabulator, or into a ballot
326 box where paper ballots are used, according to the state secretary's regulations. Such ballots shall
327 be kept secured, locked and unexamined, and no results shall be determined or announced until
328 after the time the polls close on the day of the primary or election. Disclosing any such result
329 before that time shall be punished as a violation of the first sentence of section 14 of chapter 56.

330 SECTION 21. The first paragraph of section 95 of said chapter 54, as so appearing, is
331 hereby amended by striking out the first sentence and inserting in place thereof the following

332 sentence:- The city or town clerk, on the day of the election but no later than one hour after the
333 hour for the closing of the polls, shall transmit all envelopes purporting to contain mail ballots
334 received on or before the close of business on the day before the day of the election and which
335 have not been opened under section 94A or marked "Rejected as Defective" under section 94 or
336 "Rejected as Voted in Person" under section 100, to the election officers in the several precincts
337 where the voters whose names appear on such envelopes assert the right to vote.

338 SECTION 22. Section 96 of said chapter 54, as so appearing, is hereby amended by
339 striking out, in line XX, the words “, including that the voter was not unable by reason of
340 physical disability to cast his vote in person at the polling place on the day of the election”.

341 SECTION 23. Section 99 of said chapter 54, as so appearing, is hereby amended by
342 inserting after the words “such ballots”, in line XX, the following words:- mailed on or before
343 the day of a biennial state election and received not later than 5:00 P.M. of the third day after that
344 election, or”.

345 SECTION 24. Said chapter 54 is hereby further amended by striking out section 100 and
346 inserting in place thereof the following section:-

347 Section 100. (a) A voter whose mail ballot the city or town clerk has received, and which
348 has not been marked “Rejected as Defective” under section 94, may not vote in person. A voter
349 who has applied for a mail ballot which the clerk has not yet received, or which has been so
350 marked “Rejected as Defective”, may vote in person at an early voting site or at a polling place
351 on election day. If, after such a voter has voted in person, the clerk receives from that voter an
352 envelope purporting to contain a mail ballot, the clerk shall mark across the face of that envelope
353 "Rejected as Voted in Person", and that envelope shall be preserved and destroyed in the manner

354 provided by law for the retention, preservation and destruction of official ballots. The state
355 secretary shall adopt regulations to carry out this subsection.

356 (b) A mail ballot cast within the time required by sections 93 and 99 shall be processed as
357 provided in sections 94 to 95, inclusive, although the city or town clerk knows that the voter has
358 died after casting the ballot. For the purpose of this subsection, a voter casts a ballot when: (i) the
359 voter deposits the ballot in the mail; or (ii) the voter or a family member returns the mail ballot to
360 the clerk's office, a municipal drop box, or an early voting s

361 SECTION 25. Said chapter 54 is hereby further amended by striking out section 109A
362 and inserting in place thereof the following section:-

363 Section 109A. (a) As used in this section, the following terms shall have the following
364 meanings:

365 "Audit unit", a precinct, a set of ballots, or a single ballot. A precinct, a set of ballots, or a
366 single ballot may be used as an audit unit for purposes of this section only if:

367 (i) the relevant vote tabulating device is able to produce a report of the votes cast in the
368 precinct, set of ballots, or single ballot; and

369 (ii) each ballot is assigned to not more than 1 audit unit.

370 "Contest", an election for an office or for a ballot question.

371 "Risk-limiting audit", a manual tally employing a statistical method that ensures a large,
372 predetermined minimum chance of requiring a full manual tally whenever a full manual tally
373 would show an electoral outcome that differs from the outcome reported by the vote tabulating
374 system for the audited contest. A risk-limiting audit shall begin with a hand tally of the votes in 1

375 or more audit units and shall continue to hand tally votes in additional audit units until there is
376 strong statistical evidence that the electoral outcome is correct. If counting additional audit units
377 does not provide statistical evidence to 95 per cent certainty that the electoral outcome is correct,
378 the audit shall continue until there has been a full manual tally to determine the correct electoral
379 outcome of the audited contest.

380 "Unofficial final results", election results determined under sections 105 and 105A.

381 (b) The state secretary, in conjunction with the registrars, shall conduct risk-limiting
382 audits after every regular state primary and biennial state election under this section.

383 (c) The audit program shall be conducted as follows:

384 (1) The following contests are subject to a risk-limiting audit if more than 1 candidate's
385 name appears on the ballot: (i) president and vice president, representative in congress, senator in
386 congress, governor, representative in the general court and senator in the general court; and (ii) 1
387 statewide ballot question, if any appear on the ballot, chosen by random drawing. The state
388 secretary may include other contests if the secretary determines there is a substantial public
389 interest in doing so.

390 (2) The state secretary shall audit units selected in a random, publicly verifiable, non-
391 computerized drawing supervised by the state secretary within 48 hours after polls are closed.
392 The drawing shall be fully observable to the public and representatives of each political party
393 and shall use a procedure that can be easily understood to be random by members of the public.
394 Notice of the time and place of the drawing shall be given at least 10 days before the election on
395 the website of the state secretary.

396 (3) The state secretary shall make available to the public a report of the vote tabulating
397 device results for the contest, including the results for each audit unit in the contest, before the
398 random selection of audit units to be manually tallied and before the commencement of the audit.

399 (4) The state secretary in conjunction with the registrars shall conduct the audit upon
400 tabulation of the unofficial final results.

401 (5) The state secretary in conjunction with the registrars shall conduct the audit in public
402 view by manually counting the ballots according to regulations adopted by the state secretary.

403 (d) If a risk-limiting audit of a contest leads to a full manual tally of the ballots cast using
404 the voting system, the vote counts according to that manual tally shall replace the vote counts
405 reported for the purpose of determining the official contest results.

406 (e) The results of any audits conducted under this section shall be published on the
407 website of the state secretary within 48 hours of being completed. If the audit involved a manual
408 tally of 1 or more entire precincts, then the names and numbers of all precincts audited and a
409 comparison of the vote tabulator results with the hand counts for each precinct shall be published
410 with the audit results on the website.

411 (f) Any audit required under this section shall not commence for an election subject to a
412 recount under section 135.

413 (g) The state secretary shall prepare and publish on the secretary's website a
414 comprehensive report of the results of audits under this section, not later than January 15 after a
415 biennial state election.

416 (h) The state secretary shall adopt regulations and procedures to carry out this section.

417 SECTION 26. Section 51 of chapter 51, section 34A of chapter 53, sections 87, 88, 91A,
418 91B, 91C, 92, 103 and 135 of chapter 54, and sections 21, 27 and 27A of chapter 56 of the
419 General Laws are hereby amended by striking out the words “absent voter”, “absent voting”,
420 “absentee” or “absent” (with respect to a voter or ballot) wherever they appear and inserting in
421 place thereof, in each instance, the following word:- mail.

422 SECTION 27. Whenever the term “absent voting”, “absentee voting” or the like appears
423 in any statute, charter, regulation, contract, or other document, that term shall be taken to mean
424 voting by mail ballot as provided in this act, unless the context clearly requires otherwise.

425 SECTION 28. A claim that a provision of this act providing for voting by mail ballot
426 violates the constitution of the commonwealth may be brought only within 180 days after
427 passage and only in the supreme judicial court, and shall be barred by laches to the extent that it
428 seeks to affect the outcome of a primary or election in which any voter has cast a ballot before
429 the claim was brought.

430 SECTION 29. Not later than June 30, 2022, the state secretary shall implement the portal
431 required by subsection (j) of section 89 of the General Laws, as appearing in section 14 of this
432 act, and shall enter into the agreement with the Electronic Registration Information Center, Inc.
433 required by section 47C of chapter 51 of the General Laws.

434 SECTION 30. Sections 4, 5 and 6 shall take effect 90 days after passage.