

SENATE No. 2011

The Commonwealth of Massachusetts

PRESENTED BY:

Anne M. Gobi

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 remote access for public bodies and town meeting.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|-------------------------------|--|------------------|
| <i>Anne M. Gobi</i> | <i>Worcester and Hampshire</i> | |
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | <i>2/23/2023</i> |
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | <i>3/13/2023</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> | <i>3/13/2023</i> |
| <i>Mathew J. Muratore</i> | <i>1st Plymouth</i> | <i>3/13/2023</i> |
| <i>Patrick Joseph Kearney</i> | <i>4th Plymouth</i> | <i>3/13/2023</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>3/17/2023</i> |
| <i>Michael D. Brady</i> | <i>Second Plymouth and Norfolk</i> | <i>3/20/2023</i> |
| <i>Ryan C. Fattman</i> | <i>Worcester and Hampden</i> | <i>4/6/2023</i> |

SENATE No. 2011

By Ms. Gobi, a petition (accompanied by bill, Senate, No. 2011) of Anne M. Gobi and Joanne M. Comerford for legislation relative to remote access for public bodies and town meetings. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to remote access for public bodies and town meeting.

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 20 of Chapter 30A of the General Laws, as so appearing in the 2022
2 Official Edition, is hereby amended by striking out section 20, and inserting in place thereof the
3 following section:

4 Section 20. (a) Except as provided in section 21, all meetings of a public body shall be
5 open to the public.

6 (b) Except in an emergency, in addition to any notice otherwise required by law, a public
7 body shall post notice of every meeting at least 48 hours prior to the meeting, excluding
8 Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon
9 as reasonably possible prior to the meeting. Notice shall be printed in a legible, easily
10 understandable format and shall contain the date, time and place of the meeting and a listing of
11 topics that the chair reasonably anticipates will be discussed at the meeting.

12 (c) For meetings of a local public body, notice shall be filed with the municipal clerk and
13 posted in a manner conspicuously visible to the public at all hours in or on the municipal
14 building in which the clerk's office is located and on the municipal website.

15 For meetings of a regional or district public body, notice shall be filed and posted in each
16 city or town within the region or district in the manner prescribed for local public bodies. For
17 meetings of a regional school district, the secretary of the regional school district committee shall
18 be considered to be its clerk and shall file notice with the clerk of each city or town within the
19 district and shall post the notice in the manner prescribed for local public bodies. For meetings of
20 a county public body, notice shall be filed in the office of the county commissioners and a copy
21 of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours
22 in the places as the county commissioners shall designate for the purpose.

23 For meetings of a state public body, notice shall be filed with the attorney general by
24 posting on a website under the procedures established for this purpose and a duplicate copy of
25 the notice shall be filed with the regulations division in the state secretary's office.

26 The attorney general may prescribe or approve alternative methods of notice where the
27 attorney general determines the alternative methods will afford more effective notice to the
28 public.

29 (d) Public bodies may allow remote meeting participation provided that all persons
30 present at the meeting are clearly audible to each other. Remote members may vote and shall not
31 be deemed absent for the purposes of section 23D of chapter 39. The public body shall ensure
32 public access to the deliberations of the public body for interested members of the public through
33 adequate, alternative means of public access. Where active, real-time participation by members

34 of the public is a specific requirement of a general or special law, regulation or a local ordinance
35 or by-law, pursuant to which the proceeding is conducted, any adequate, alternative means of
36 public access pursuant to regulations established under section j shall provide for such
37 participation and shall be sufficient to meet such participation requirement. A municipal public
38 body that for reasons of economic hardship and despite best efforts is unable to provide
39 adequate, alternative means of public access that will enable the public to follow the proceedings
40 of the municipal public body as those activities are occurring in real-time may instead post on its
41 municipal website a full and complete transcript, recording or other comprehensive records of
42 the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall
43 not apply to proceedings that are conducted pursuant to a general or special law, regulation or a
44 local ordinance or bylaw that requires allowance for active participation by members of the
45 public. A public body shall offer its selected adequate, alternative means of public access to its
46 proceedings without subscription, toll or similar charge to the public.

47 (e) Public bodies may allow hybrid meeting participation provided that all persons
48 present at the meeting are clearly audible to each other.

49 (f) A public body may allow remote participation by all members in any meeting of the
50 public body and a quorum of the body and the chair shall not be required to be physically present
51 at a specified meeting location.

52 (g) A public body that elects to conduct its proceedings under this section shall ensure
53 that any party entitled or required to appear before it shall be able to appear through remote
54 means, as if the party were a member of the public body and participating remotely as provided
55 in subsection

56 (h) No person shall address a meeting of a public body without permission of the chair,
57 and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings
58 of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt
59 the proceedings, the chair may order the person to withdraw from the meeting and if the person
60 does not withdraw, the chair may authorize a constable or other officer to remove the person
61 from the meeting.

62 (i) Within 2 weeks of qualification for office, all persons serving on a public body shall
63 certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting
64 law, regulations promulgated under section 25 and a copy of the educational materials prepared
65 by the attorney general explaining the open meeting law and its application under section 19.
66 Unless otherwise directed or approved by the attorney general, the appointing authority, city or
67 town clerk or the executive director or other appropriate administrator of a state or regional body,
68 or their designees, shall obtain certification from each person upon entering service and shall
69 retain it subject to the applicable records retention schedule where the body maintains its official
70 records. The certification shall be evidence that the member of a public body has read and
71 understands the requirements of the open meeting law and the consequences of violating it.

72 (j) The attorney general shall develop and adopt standards and guidelines for remote or
73 hybrid participation of public bodies.

74 SECTION 2. Said chapter 30A of the General Laws is hereby further amended by
75 inserting after section 20 the following section:

76 Section 20 ½ . (a) Notwithstanding any general or special law, charter provision,
77 ordinance or by-law to the contrary, the moderator in a town having a representative or open

78 town meeting form of government may request that the select board or board of selectmen of the
79 town call for a representative or open town meeting to be held through remote or hybrid
80 participation, including, but not limited to, by means of a video or telephone conferencing
81 platform. Such a request by the moderator to the select board or board of selectmen shall be in
82 writing and shall include, but shall not be limited to: (i) the moderator's determination and
83 request to hold a town meeting through remote participation in accordance with this section; (ii)
84 the video or telephone conferencing platform the moderator has determined to use to hold the
85 town meeting; (iii) confirmation that the moderator has consulted with the local disability
86 commission or coordinator for federal Americans with Disabilities Act compliance; and (iv) a
87 certification by the moderator that: (A) the moderator has tested the video or telephone
88 conferencing platform; and (B) the platform satisfactorily enables the town meeting to be
89 conducted in substantially the same manner as if the meeting occurred in person at a physical
90 location and in accordance with the operational and functional requirements set forth in this
91 section.

92 A video or telephone conference platform used by a town meeting for remote or hybrid
93 participation under this section shall, at minimum, provide for the ability for: (i) the moderator,
94 town meeting members, town officials and any other interested members of the public to identify
95 and hear the moderator and each town meeting member who attends and participates in the
96 remotely-held town meeting, as well as any other individuals who participate in the remotely-
97 held town meeting; (ii) the ability to determine whether a quorum is present; (iii) a town meeting
98 member, town official or other individual to request recognition by the moderator without prior
99 authorization; provided, however, that to the extent technologically feasible, the request is visible
100 or audible to the public in real time and upon review of the recording of the town meeting

101 proceedings, preserved according to subsection (h); (iv) the moderator to determine when a town
102 meeting member wishes to be recognized to speak, make a motion, raise a point of order or
103 object to a request for unanimous consent; (v) the moderator to recognize a town meeting
104 member, town official or other individual to speak and to enable that person to speak; (vi) the
105 ability to conduct a roll call vote; (vii) any interested members of the public to access the
106 meeting remotely for purposes of witnessing the deliberations and actions taken at the town
107 meeting; and (viii) the town meeting to be recorded. Registered voters residing in the town
108 wishing to participate in a remote town meeting conducted pursuant to this section shall submit a
109 request to participate to the town clerk not less than 48 hours in advance of the town meeting.
110 Upon receipt of the request and verification of the requester's voter registration status, the clerk
111 shall provide to the requester instructions for participating in the remote town meeting.

112 (b) Not later than 10 business days following receipt of a written request by the
113 moderator for remote or hybrid participation at a town meeting pursuant to subsection (a), the
114 select board or board of selectmen shall vote to determine if the town meeting shall be held
115 remotely by means of the video or telephone conferencing platform requested by the moderator.

116 (c) If the select board or board of selectmen votes to approve the request of the
117 moderator for remote or hybrid participation at a town meeting the select board shall issue, a
118 notice that expressly states: (i) that the town meeting shall be held remotely by means of the
119 video or telephone conferencing platform requested by the moderator; (ii) the date and time of
120 the meeting; and (iii) any information necessary for the moderator, town meeting members, town
121 officials and interested members of the public to access and witness the deliberations and actions
122 taken at the town meeting remotely.

123 The notice issued by the select board or board of selectmen shall be: (i) accompanied by
124 the written request of the moderator submitted to the select board or board of selectmen under
125 subsection (a); (ii) filed and posted in accordance with the requirements of subsection (b) of
126 section 10A of chapter 39 of the General Laws; (iii) publicly posted not less than 10 days before
127 the scheduled date of the remote town meeting. The notice may include a date, time and place for
128 the town meeting to be resumed if the town meeting does not vote to continue the town meeting
129 remotely pursuant to subsection (f).

130 (d) If the select board or board of selectmen votes to approve the request of the
131 moderator for remote or hybrid participation at a town meeting and the select board or board of
132 selectmen has not yet issued a warrant for a town meeting, the select board or board of selectmen
133 shall approve and issue a warrant pursuant to section 10 of said chapter 39 for the town meeting
134 that expressly states: (i) that the town meeting shall be held remotely or hybrid by means of the
135 video or telephone conferencing platform requested by the moderator; (ii) the date and time of
136 the meeting; and (iii) any information necessary for access and witness the deliberations and
137 actions taken at the town meeting remotely.

138 The warrant issued by the select board or board of selectmen shall be: (i) accompanied by
139 the written request of the moderator submitted to the select board or board of selectmen under
140 subsection (a); and (ii) filed in accordance with said section 10 of said chapter 39, all other
141 applicable laws and any relevant provisions of the town charter or by-laws. The warrant may
142 include a date, time and place for the town meeting to be resumed if the town meeting does not
143 vote to continue the town meeting remotely pursuant to subsection (f).

144 (e) Not later than 5 business days after a vote of the select board or board of selectmen to
145 approve the request of the moderator to hold a town meeting remotely or hybrid pursuant to
146 subsection (c) or (d), the town clerk shall submit certified copies of the vote of the select board
147 or board of selectmen and the written request of the moderator to the attorney general.

148 (f) Any roll call vote taken at a representative or open town meeting held through remote
149 or hybrid participation pursuant to this section shall be taken by any means that the moderator
150 determines accurately and securely records the votes of those entitled to vote at the meeting,
151 including, but not limited to, roll call vote, electronic voting, voting by ballot, voting by phone or
152 any combination thereof. The vote of each voting member on a roll call vote shall be recorded
153 and kept with the minutes of the town meeting.

154 (g) A representative or open town meeting held remotely or hybrid pursuant to this
155 section shall be recorded and the recording shall be preserved and made publicly available on the
156 town's website for not less than 90 days after the conclusion of the remote or hybrid town
157 meeting.

158 (h) All actions taken during a remote or hybrid town meeting held pursuant to this
159 section are hereby ratified, validated and confirmed to the same extent as if the town meeting had
160 been conducted in person and such actions are in accordance with all other applicable laws,
161 charter provisions, ordinances and by-laws.

162 (j) The attorney general shall develop and adopt standards and guidelines for remote or
163 hybrid participation of town meetings.