

HOUSE No. 5086

The Commonwealth of Massachusetts

PRESENTED BY:

Tommy Vitolo

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 conforming with the Electoral Count Reform Act of 2022 and ensuring uniform faithful Presidential electors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/12/2026</i>

HOUSE No. 5086

By Representative Vitolo of Brookline, a petition (subject to Joint Rule 12) of Tommy Vitolo relative to the electoral count and presidential electors. Election Laws.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act conforming with the Electoral Count Reform Act of 2022 and ensuring uniform faithful Presidential electors.

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 118 of chapter 54 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by striking out the second sentence and inserting in place
3 thereof the following:-

4 The several persons, to the number of electors required to be chosen, who have received
5 the highest number of votes so ascertained shall, at the expiration of fourteen days from the date
6 of such proclamation or on the date that is six days before the meeting of presidential electors,
7 whichever is sooner, be deemed to be elected; and the governor shall thereupon issue a certificate
8 of election to every such person.

9 SECTION 2. Said section 118 of said chapter 54, as so appearing, is hereby further
10 amended by adding the following paragraph:-

11 Said certificates of election shall take the form of duplicate-originals of a certificate of
12 ascertainment of appointment of electors that the governor shall issue and immediately transmit

13 to the Archivist of the United States by the most expeditious method available. A copy of this
14 certificate shall also be publicly posted that same day to the website of the state secretary.

15 SECTION 3. Section 138 of chapter 54 of the General Laws is hereby amended by
16 striking out section 138 and inserting in place thereof the following section:-

17 Section 138. (a) The certificate of ascertainment of appointment of electors issued under
18 section 118 shall:

19 (1) bear the seal of the state;

20 (2) contain at least one security feature, as determined by the state secretary and which
21 may remain confidential, for purposes of verifying the authenticity of such certificate; and

22 (3) set forth the names of the presidential electors appointed and the vote cast for each of
23 the elector nominees who has received at least one-fifth of the entire number of votes cast for
24 electors.

25 (b) At the conclusion of the meeting of presidential electors under Section 148, the state
26 secretary shall assist the presidential electors with preparing a certificate of vote. The presidential
27 electors shall sign six certificates of all the votes given by them. Each of these certificates shall
28 contain two distinct lists: one of the votes for President and the other of the votes for Vice
29 President. The presidential electors shall annex to each of these certificates of votes a copy of
30 the final certificate of ascertainment of appointment of electors, which shall have been furnished
31 to them by direction of the governor.

32 (c) A copy of the certificate of votes shall be publicly posted to the website of the state
33 secretary later that day.

34 (d) The state secretary shall assist the presidential electors with processing and
35 transmitting the signed certificates of vote along with copies of the final certificate of
36 ascertainment. The electors shall seal up the certificates of votes made by them, together with a
37 copy of the final certificate of ascertainment of appointment of electors, and certify upon each
38 that the lists of all the votes of the state for President, and of all the votes of the state for Vice
39 President, are contained therein.

40 (e) The presidential electors shall immediately transmit by the most expeditious method
41 available the certificates of votes made by them, together with the copies of the final certificate
42 of ascertainment of appointment of electors, as follows:

43 (1) One set shall be sent to the President of the United States Senate at the federal seat of
44 government;

45 (2) Two sets shall be provided to the state secretary, one of which shall be held subject to
46 the order of the President of the United States Senate, the other to be preserved by the state
47 secretary for one year and shall be a part of the public records of such office and shall be open to
48 public inspection;

49 (3) Two sets shall be sent to the Archivist of the United States at the federal seat of
50 government, one of which shall be held subject to the order of the President of the United States
51 Senate and the other of which shall be preserved by the Archivist of the United States for one
52 year and shall be a part of the public records of such office and shall be open to public
53 inspection; and

54 (4) One set shall be sent to the chief judge of the United States District Court for the
55 District of Massachusetts.

56 SECTION 4. The first paragraph of section 8 of chapter 53 of the General Laws, as
57 appearing in the 2022 Official Edition, is hereby amended by inserting after the fourth sentence
58 the following 2 sentences:- For each presidential elector nominated by the state committee of a
59 political party, the state committee shall nominate an alternate elector nominee and shall submit
60 to the state secretary the names of 2 qualified individuals. One of the individuals shall be
61 designated the “elector nominee” and the other shall be designated an “alternate elector
62 nominee”.

63 SECTION 5. Said section 8 of said chapter 53, as so appearing, is hereby further
64 amended by striking out, in lines 24 and 25, the words “a pledge by the presidential elector to
65 vote for the candidate named in the filing” and inserting in place therefore the following words:-
66 the following pledge: “If selected for the position of elector, I agree to serve and to mark my
67 ballots for President and Vice President for the nominees for those offices of the party that
68 nominated me.” The executed pledges shall accompany the submission of the corresponding
69 names to the state secretary.

70 SECTION 6. Said chapter 53 is hereby further amended by inserting after section 8 the
71 following section:-

72 Section 8A. If, after the nomination of a candidate for president or vice president by a
73 political party and before the meeting of presidential electors described in section 148 of chapter
74 54, the candidate dies or withdraws as a candidate for that office in accordance with the rules of
75 the political party, the pledge executed by nominees and alternate nominees for presidential
76 elector under section 8 or by substitute presidential electors under section subsection (b) of

77 section 148A of chapter 54 shall apply to the successor candidate for that office nominated by
78 the political party in accordance with the party's rules.

79 SECTION 7. Section 118 of chapter 54 of the General Laws, as appearing in the 2024
80 Official Edition, is hereby amended by adding the following paragraph:-

81 In submitting the commonwealth's certificate of ascertainment as required by 3 U.S.C.
82 Section 5, the governor shall certify the commonwealth's electors and state in the certificate that:
83 (1) the electors shall serve as electors unless a vacancy occurs in the office of elector before the
84 end of the meeting at which elector votes are cast, in which case a substitute elector shall fill the
85 vacancy; and (2) if a substitute elector is appointed to fill a vacancy, the governor shall submit an
86 amended certificate of ascertainment stating the names on the final list of the commonwealth's
87 electors.

88 SECTION 8. Said chapter 54 is hereby further amended by inserting after section 148 the
89 following 3 sections:-

90 Section 148A. (a) If an elector is not present to vote at the required time, the elector
91 position shall be considered vacant. The presiding officer of the electors shall appoint an
92 individual as a substitute elector to fill a vacancy as follows:

93 (1) if the alternate elector nominee is present to vote, by appointing the alternate elector
94 nominee for the vacant position.

95 (2) if the alternate elector nominee for the vacant position is not present to vote, by
96 appointing an elector chosen by lot from among the alternate elector nominees present to vote
97 who were nominated by the same political party or group;

98 (3) if the number of alternate elector nominees present to vote is insufficient to fill a
99 vacant position pursuant to clauses (1) and (2), by appointing any immediately available
100 individual who is qualified to serve as an elector and chosen through nomination by and plurality
101 vote of the remaining electors, including nomination and vote by a single elector if only 1 elector
102 remains;

103 (4) if there is a tie between at least 2 nominees for substitute elector in a vote conducted
104 under clause (3), by appointing an elector chosen by lot from among those nominees.

105 (b) If all elector positions are vacant and cannot be filled pursuant to subsection (a), the
106 state secretary shall appoint a single presidential elector, with remaining vacant positions to be
107 filled pursuant to clause (3) or, if necessary, clause (4) of said subsection (a).

108 (c) To qualify as a substitute elector under subsection (a), an individual who has not
109 executed the pledge required under section 8 of chapter 53 shall execute the following pledge:

110 "I agree to serve and to mark my ballots for President and Vice President consistent with
111 the pledge of the individual to whose elector position I have succeeded."

112 Section 148B. (a) At the time designated for elector voting and after all vacant positions
113 have been filled pursuant to section 148A, the state secretary shall provide each elector with a
114 presidential and a vice presidential ballot. The elector shall mark the elector's presidential and
115 vice-presidential ballots with the elector's votes for the offices of president and vice president,
116 respectively, along with the elector's signature and the elector's legibly printed name.

117 (b) Each elector shall present both completed ballots to the state secretary, who shall
118 examine the ballots and accept as cast all ballots of electors whose votes are consistent

119 with their pledges executed pursuant to section 8 of chapter 53 or subsection (c) of
120 section 148A. The state secretary shall not accept and shall not count either an elector's
121 presidential or vice presidential ballot if the elector has not marked both ballots or has marked a
122 ballot in violation of the elector's pledge.

123 (c) An elector who refuses to present a ballot, presents an unmarked ballot, refuses to
124 sign the certificate of vote for president and vice president or presents a ballot marked in
125 violation of the elector's pledge executed pursuant to section 8 of chapter 53 or subsection (c) of
126 section 148A vacates the office of elector, creating a vacant position to be filled pursuant to
127 section 148A.

128 (d) The state secretary shall distribute ballots to and collect ballots from a substitute
129 elector and repeat the process of examining ballots, declaring and filling vacant positions as
130 required and recording appropriately completed ballots from the substituted electors, until all of
131 this state's electoral votes have been cast and recorded.

132 Section 148C. (a) After the vote of the commonwealth's electors is completed, if the final
133 list of electors differs from any list that the governor previously included on a certificate of
134 ascertainment prepared and transmitted under 3 U.S.C. Section 5, the state secretary shall
135 immediately prepare an amended certificate of ascertainment consistent with 3 U.S.C. Section 4
136 and transmit it to the governor for the governor's signature.

137 (b) The governor shall immediately deliver the signed amended certificate of
138 ascertainment to the state secretary and a signed duplicate of the original of the amended
139 certificate of ascertainment to all individuals entitled to receive the commonwealth's certificate

140 of ascertainment, indicating that the amended certificate of ascertainment shall be substituted for
141 the certificate of ascertainment previously submitted.

142 SECTION 9. This act shall take effect July 1, 2026.