

SENATE No. 3186

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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:

James B. Eldridge

DISTRICT/ADDRESS:

Middlesex and Worcester

SENATE No. 3186

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 3186) (subject to Joint Rule 12) of James B. Eldridge for legislation to conform with the electoral count reform act of 2022 and ensure uniform faithful 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 Except as otherwise provided in the Agreement Among the States to Elect the President
5 by National Popular Vote as ratified in Chapter 229 of the Acts of 2010, the several persons, to
6 the number of electors required to be chosen, who have received the highest number of votes so
7 ascertained shall, at the expiration of fourteen days from the date of such proclamation or on the
8 date that is six days before the meeting of presidential electors, whichever is sooner, be deemed
9 to be elected; and the governor shall thereupon issue a certificate of election to every such
10 person.

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

Said certificates of election shall take the form of duplicate-originals of a certificate of ascertainment of appointment of electors that the governor shall issue and immediately transmit to the Archivist of the United States by the most expeditious method available. A copy of this certificate shall also be publicly posted that same day to the website of the state secretary.

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

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

(1) bear the seal of the state;

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

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

(b) At the conclusion of the meeting of presidential electors under Section 148, the state secretary shall assist the presidential electors with preparing a certificate of vote. The presidential electors shall sign six certificates of all the votes given by them. Each of these certificates shall contain two distinct lists: one of the votes for President and the other of the votes for Vice President. The presidential electors shall annex to each of these certificates of votes a copy of

the final certificate of ascertainment of appointment of electors, which shall have been furnished to them by direction of the governor.

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

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

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

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

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

(3) Two sets shall be sent to the Archivist of the United States at the federal seat of government, one of which shall be held subject to the order of the President of the United States

Senate and the other of which shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of such office and shall be open to public inspection; and

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

SECTION 4. Said section 119 of said chapter 54 of the General Laws is hereby amended by adding the following paragraph:-

The supreme judicial court for Suffolk county has original and exclusive jurisdiction to consider a petition under this section. To have conclusive effect on the determination of electors appointed by this state, the supreme court's final order in a proceeding under this section must be issued not later than the day before the date that the electors for President and Vice President of the United States convene under Section 148.

SECTION 5. The first paragraph of section 8 of chapter 53 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after the fourth sentence the following 2 sentences:- For each presidential elector nominated by the state committee of a political party, the state committee shall nominate an alternate elector nominee and shall submit to the state secretary the names of 2 qualified individuals. One of the individuals shall be designated the "elector nominee" and the other shall be designated an "alternate elector nominee".

SECTION 6. Said section 8 of said chapter 53, as so appearing, is hereby further amended by striking out, in lines 24 and 25, the words "a pledge by the presidential elector to vote for the candidate named in the filing" and inserting in place therefore the following words:-

the following pledge: “If selected for the position of elector, I agree to serve and to mark my ballots for President and Vice President for the nominees for those offices of the party that nominated me.” The executed pledges shall accompany the submission of the corresponding names to the state secretary.

SECTION 7. Said chapter 53 is hereby further amended by inserting after section 8 the following section:-

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

SECTION 8. Section 118 of chapter 54 of the General Laws, as appearing in the 2024 Official Edition, is hereby amended by adding the following paragraph:-

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

SECTION 9. Said chapter 54 is hereby further amended by inserting after section 148 the following 3 sections:-

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

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

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

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

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

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

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

119 “I agree to serve and to mark my ballots for President and Vice President consistent with
120 the pledge of the individual to whose elector position I have succeeded.”

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

126 (b) Each elector shall present both completed ballots to the state secretary, who shall
127 examine the ballots and accept as cast all ballots of electors whose votes are consistent with their
128 pledges executed pursuant to section 8 of chapter 53 or subsection (c) of section 148A. The state
129 secretary shall not accept and shall not count either an elector’s presidential or vice presidential
130 ballot if the elector has not marked both ballots or has marked a ballot in violation of the
131 elector’s pledge.

132 (c) An elector who refuses to present a ballot, presents an unmarked ballot, refuses to
133 sign the certificate of vote for president and vice president or presents a ballot marked in
134 violation of the elector’s pledge executed pursuant to section 8 of chapter 53 or subsection (c) of
135 section 148A vacates the office of elector, creating a vacant position to be filled pursuant to
136 section 148A.

137 (d) The state secretary shall distribute ballots to and collect ballots from a substitute
138 elector and repeat the process of examining ballots, declaring and filling vacant positions as

139 required and recording appropriately completed ballots from the substituted electors, until all of
140 this state's electoral votes have been cast and recorded.

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

146 (b) The governor shall immediately deliver the signed amended certificate of
147 ascertainment to the state secretary and a signed duplicate of the original of the amended
148 certificate of ascertainment to all individuals entitled to receive the commonwealth's certificate
149 of ascertainment, indicating that the amended certificate of ascertainment shall be substituted for
150 the certificate of ascertainment previously submitted.

151 SECTION 10. This act shall take effect July 1, 2026.