

**The Commonwealth of Massachusetts**

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**JOURNAL OF THE HOUSE.**



**THURSDAY, JULY 21, 2022.**

[77]\*

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## JOURNAL OF THE HOUSE.

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Thursday, July 21, 2022.

Met according to adjournment at eleven o'clock A.M., under emergency rules, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of  
allegiance.

### *Valedictory Address.*

During the session, the Speaker took the Chair, declared a brief recess; and there being no objection, former Representative Robinson of Framingham addressed the House regarding her departure from service in the House of Representatives.

Valedictory  
address.

### *Order.*

The following order (filed by Mr. Gordon of Bedford) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

*Ordered*, That, notwithstanding the provisions of Joint Rule 10, the committee on Public Service be granted until Saturday, December 31, 2022, within which time to make its final report on current Senate documents numbered 1739, 1793, 2601, 2653, 2825, 2907, 2952, 2958, 2991 and 3001, and House documents numbered 2665, 2673, 3911, 4294, 4841, 4914, 4915, 4924 and 4973.

Public Service  
committee,—  
extension  
of time for  
reporting.

Mr. Galvin of Canton, for the committees on Rules, reported that the order (House, No. 5064) ought to be adopted. Under suspension of the rules, on motion of Mr. Cutler of Pembroke, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

### *Papers from the Senate.*

The House Bill authorizing the commissioner of capital asset management and maintenance to convey a parcel of land to the town of Brewster (House, No. 4901) (its title having been changed by the Senate committee on Bills in the Third Reading), came from the Senate, passed to be engrossed, in concurrence, with an amendment in section 1, in line 5, striking out the figures: "10,000" and inserting in place thereof the figures: "6150".

Brewster,—  
land.

The amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

Subsequently, the amendment (having been reported by said committee to be correctly drawn, was considered forthwith; and it was adopted, in concurrence.

The House Bill providing for the disposition of certain land in the town of West Brookfield (House, No. 4519), came from the Senate, passed to be engrossed, in

West  
Brookfield,—  
land.

concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 3025.

The amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

Subsequently, the amendment (having been reported by said committee to be correctly drawn, was considered forthwith; and it was adopted, in concurrence.

#### Bills

Further regulating PEG access and cable related funds (Senate, No. 1346) (on a petition);

PEG access  
and cable funds.

Changing the name of the board of selectmen in the town of Goshen to select board (Senate, No. 2513, amended by striking out section 2 and inserting in place thereof the following section:

Goshen,—  
select  
board.

“SECTION 2. Notwithstanding sections 21 and 32 of chapter 40 of the General Laws, section 5 of chapter 40A of the General Laws or any general or special law to the contrary, the select board of the town of Goshen may amend the general by-laws and zoning by-laws of the town by majority vote to revise all references to the board of selectmen and its members to select board and select board member, respectively, in accordance with section 1.”) (on a petition) [Local Approval Received];

Establishing a sick leave bank for Michael D’Ambra, an employee of the Worcester County Sheriff’s Office (Senate, No. 2965) (on Senate, No. 2960); and

Michael  
D’Ambra.

Authorizing the town of Middleborough to convey a certain parcel of conservation land (Senate, No. 3029) (on Senate bill No. 2517) [Local Approval Received];

Middleborough,—  
land.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 3027) of Brendan P. Crighton (by vote of the town) for legislation to authorize the town of Marblehead to amend the general bylaws to add a new chapter 175, Elections regarding the order of candidates names on ballot. To the committee on Election Laws.

Marblehead,—  
candidates.

Petition (accompanied by bill, Senate, No. 3024) of Diana DiZoglio, Christina A. Minicucci, Tram T. Nguyen and Bruce E. Tarr (by vote of the town) for legislation to exempt Jesus Melendez from the maximum age requirement for firefighter in the town of North Andover; and

North  
Andover,—  
Jesus Melendez .

Petition (accompanied by bill, Senate, No. 3026) of Adam G. Hinds (by vote of the town) for legislation to authorize the town of Hinsdale to continue employment of Susan Rathbun;

Hinsdale,—  
Susan Rathbun.

Severally to the committee on Public Service.

#### *Reports of Committees.*

By Mr. Galvin of Canton, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Joint petition (accompanied by bill) of Natalie M. Blais and Adam G. Hinds for legislation to authorize the town of Ashfield to enter into an agreement to establish the West County Senior Services District. To the committee on Municipalities and Regional Government.

West County  
Senior Services  
District.

**UNCORRECTED PROOF.**

Petition (accompanied by bill) of Kelly W. Pease (with the approval of the mayor and city council) that the commissioner of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land to the school department in the city of Westfield. To the committee on State Administration and Regulatory Oversight.

Westfield,—  
land.

Under suspension of the rules, on motion of Mr. Cutler of Pembroke, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Report of the committee on Telecommunications, Utilities and Energy, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 3283) of Mark J. Cusack, Brian W. Murray and Tommy Vitolo for legislation to eliminate geographic barriers of shared solar energy.

Solar  
energy,—  
barriers.

Report of the same committee, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 3287) of Michael S. Day that retailers of home heating oil provide notices to customers of the availability of liability insurance coverage for certain claims arising out of releases of oil into the environment.

Home  
heating oil,—  
liability.

Under suspension of the rules, in each instance, on motion of Mr. Roy of Franklin, the reports severally were considered forthwith, the question being on acceptance.

Pending the question on acceptance of the reports (under Joint Rule 10), the petitions were recommitted, in each instance, on further motion of the same member, to the committee on Telecommunications, Utilities and Energy.

*Motions to Discharge Certain Matters in the Orders of the Day.*

The Senate Bill authorizing the town of Tisbury to hold 2022, 2023 and 2024 town meetings outside of the geographic limits of the town if necessary for health and safety (Senate, No. 2990), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day, and read a third time forthwith, under suspension of Rule 47, on motion of Mr. Cutler of Pembroke; and it was passed to be engrossed, in concurrence.

Tisbury,—  
town  
meetings.

The following House bills, having been reported by the committee on Bills in the Third Reading to be correctly drawn, were discharged from their position in the Orders of the Day, and read a third time forthwith, under suspension of Rule 47, in each instance, on motion of Mr. Cutler of Pembroke:

Authorizing the town of Barnstable to grant an easement to Park City Wind LLC (House, No. 4986);

Barnstable,—  
land.

Authorizing the Division of Capital Asset Management and Maintenance to convey certain property in the city of Malden to the city of Malden (House, No. 5045);

Malden,—  
land.

Relative to a certain parcel of land in the town of Townsend (House, No. 5048);  
and

Townsend,—  
land.

Authorizing the transfer of Martha's Vineyard Land Bank Commission land in Oak Bluffs (House, No. 5049);

Oak Bluffs,—  
land.

And they severally were passed to be engrossed. Severally sent to the Senate for concurrence.

The House Bill to allow Saugus town meeting to adopt a process to allow non-binding resolutions (printed as Senate, No. 460), reported by the committee on Bills

Saugus,—  
town  
meeting.

**UNCORRECTED PROOF.**

in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day, and read a third time forthwith, under suspension of Rule 47, on motion of Mr. Cutler of Pembroke.

Pending the question on passing the bill to be engrossed, Ms. Garlick of Needham moved to amend it by substitution of a bill with the same title (House, No. 5067), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill relative to the appointment of special police officers in the city of Fall River (House, No. 4870), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day, and read a third time forthwith, under suspension of Rule 47, on motion of Mr. Cutler of Pembroke.

Fall River,—  
police.

Pending the question on passing the bill to be engrossed, Ms. Garlick of Needham moved to amend it in section 1, in line 8, by adding after the word “Laws.” (as changed by the committee on Bills in the Third Reading) the following sentence: “Any such officer so appointed, shall comply with all requirements of chapter 6E of the General Laws, including (i) maintaining certification and good standing with the peace officer standards and training commission and (ii) complying with all annual in-service and other training requirements mandated by the Municipal Police Training Committee.”; and in line 15 by striking out the following: “M.G.L. Ch. 6 and 2019 MA S.B. 2963” and inserting in place thereof the following: “chapter 6E of the General Laws”.

The amendments were adopted; and the bill (House, No. 4870, amended) was passed to be engrossed. Sent to the Senate for concurrence.

*Recess.*

At fourteen minutes after eleven o’clock A.M., on motion of Mr. Wong of Saugus (Mr. Donato of Medford being in the Chair), the House recessed until one o’clock P.M.; and at twenty-three minutes before two o’clock the House was called to order with Ms. Hogan of Stow in the Chair.

Recess.

*Quorum.*

As required under the provision of Emergency Rule 2(4), a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 152 members were recorded as being in attendance.

Quorum,—  
yea and nay  
No. 222.

**[See [Yea and Nay No. 222](#) in Supplement.]**

Therefore a quorum was present.

Subsequently a statement of Ms. Elugardo of Boston was spread upon the records of the House, as follows:

Statement of  
Ms. Elugardo  
of Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous quorum roll call I was unable to connect with my Division Monitor due to technical difficulties and was therefore not recorded as being present.

*Engrossed Bill — Land Taking.*

**UNCORRECTED PROOF.**

The engrossed Bill authorizing the town of Danvers to convey and acquire certain property (see House, No. 3751, changed and amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Danvers,—  
property.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 153 members voted in the affirmative and 0 in the negative.

Bill enacted  
(land taking),—  
yea and nay  
No. 223.

**[See Yea and Nay No. 223 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Engrossed Bills.*

The engrossed Bill authorizing the town of Tisbury to hold 2022, 2023 and 2024 town meetings outside of the geographic limits of the town if necessary for health and safety (see Senate, No. 2990) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same), there being no objection; and it was signed by the acting Speaker and sent to the Senate.

Bill  
enacted.

The engrossed Bill amending the charter of the town of Sutton (see Senate, No. 2799) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted, there being no objection; and it was signed by the acting Speaker and sent to the Senate

Id.

*Reports of Committees.*

Miss Gregoire of Marlborough, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2951) of the House Bill financing the general governmental infrastructure of the Commonwealth (House, No. 4807), reported a bill with the same title (House, No. 5065) [Bond Issue: General Obligation Bonds: \$5,187,852,000]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

General  
infrastructure  
bond bill.

Mr. Honan of Boston, for said committee, then reported, that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Miss Gregoire, the report was considered forthwith; and after remarks it was accepted. Sent to the Senate for concurrence.

By Mr. Roy of Franklin, for the committee of conference on the disagreeing votes of the two branches with reference to the Senate amendments (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2842; and striking out the title and inserting in place thereof the following title: “An Act driving climate policy forward.”) of the House Bill advancing offshore wind and clean energy (House, No. 4524), reported a Bill driving clean

Offshore  
wind and  
clean energy.

energy and offshore wind (House, No. 5060). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Honan of Boston, for said committee, then reported, that the matter be scheduled for consideration by the House.

Mr. Roy of Franklin moved that the rules be suspended in order that the report of the committee of conference might be considered forthwith.

On the motion to suspend the rules, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 126 members voted in the affirmative and 27 in the negative.

[See [Yea and Nay No. 224](#) in Supplement.]

Therefore the rules were suspended.

After debate on the question on acceptance of the report, the sense of the House was taken by yeas and nays, at the request of Mr. Roy of Franklin; and on the roll call (the Speaker being in the Chair) 143 members voted in the affirmative and 9 in the negative.

[See [Yea and Nay No. 225](#) in Supplement.]

Therefore the report of the committee of conference was accepted. Sent to the Senate for concurrence.

Rules suspended,—yea and nay No. 224.

Committee of conference report accepted,—yea and nay No. 225.

*Engrossed Bills.*

The Speaker being in the Chair,—

The engrossed Bill authorizing special police officers in the town of Natick to serve until the age of 70 (see House, No. 3762, amended) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepare for final passage, was passed to be re-enacted, in its amended form, there being no objection; and it was signed by the Speaker and sent to the Senate.

Bill re-enacted.

The engrossed Bill further regulating the appointment of retired police officers in the town of Canton (see House, No. 4838, amended) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepare for final passage, was passed to be re-enacted, in its amended form, there being no objection; and it was signed by the Speaker and sent to the Senate.

Id.

The engrossed Bill merging certain voting precincts in the town of Middleton (see House Bill printed in House, No. 4823) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same), there being no objection; and it was signed by the Speaker and sent to the Senate.

Bill enacted.

Engrossed bills

Authorizing senior water and sewer discounts in the town of Arlington (see House, No. 3749, amended);

Bills enacted.

Establishing residency requirements for the offices of mayor, city council and school committee in the city of Revere (see House, No. 3965); and

Regulating town meeting membership in the town of Burlington (see House, No. 4764);



(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted, there being no objection; and they were signed by the Speaker and sent to the Senate.

*Recess.*

At twenty-two minutes before four o'clock P.M., on motion of Mr. Jones of North Reading (Ms. Hogan of Stow being in the Chair), the House recessed subject to the call of the chair; and at four minutes after five o'clock, the House was called to order with the Speaker in the Chair.

Recess.

*Motion to Discharge a Certain Matter in the Orders of the Day.*

The House Bill to improve and modernize the information technology systems and capacities of the judiciary (House, No. 5046), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day, and read a third time forthwith, under suspension of Rule 47, on motion of Mr. Day of Stoneham.

Judiciary,—  
information  
technology.

After remarks on the question on passing the bill to be engrossed, Mr. Day of Stoneham and other members of the House moved to amend it by adding the following 27 sections:

“SECTION 36. Section 131 of chapter 140 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, in lines 6 to 8, inclusive, the words ‘, subject to such restrictions relative to the possession, use or carrying of firearms as the licensing authority considers proper’.

SECTION 37. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 10 to 17, inclusive, the words ‘; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as it considers proper. A violation of a restriction imposed by the licensing authority under this paragraph shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that section 10 of chapter 269 shall not apply to a violation of this paragraph.’

SECTION 38. Said section 131 of said chapter 140, as so appearing, is hereby further amended by inserting after the word ‘of’, in lines 55, 256 and 364, in each instance, the following words: - the department of.

SECTION 39. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 73, the word ‘may’ and inserting in place thereof the following words: - shall, following a personal interview,.

SECTION 40. Subsection (d) of said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph: -

A person residing or having a place of business within the jurisdiction of the licensing authority or any law enforcement officer employed by the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority or the colonel of state police an application for a license to carry firearms, or renewal of the same, which the licensing authority or the colonel shall issue if it appears that the applicant is not



a prohibited person or determined to be unsuitable to be issued a license as set forth in this section.

SECTION 41. Said subsection (d) of said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out clauses (vii) through (x), inclusive, and inserting in place thereof the following clauses: -

(vii) poses a risk of danger to their self or others by having in their control, ownership or possession a weapon, feeding device or ammunition;

(viii) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction;

(ix) has been discharged from the armed forces of the United States under dishonorable conditions;

(x) is a fugitive from justice; or

(xi) having been a citizen of the United States, has renounced that citizenship.

SECTION 42. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 137, the words “or (C)” and inserting in place thereof the following words: - (C) a permanent or temporary harassment prevention order issued pursuant to chapter 258E or a similar order issued by another jurisdiction; or (D).

SECTION 43. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 147, the word ‘may’ and inserting in place thereof the following word: - shall.

SECTION 44. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 149 to 150, inclusive, the words ‘, in a reasonable exercise of discretion, the licensing authority determines that’.

SECTION 45. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 152 to 157, inclusive, the words ‘: (i) reliable and credible information that the applicant or licensee has exhibited or engaged in behavior that suggests that, if issued a license, the applicant or licensee may create a risk to public safety; or (ii) existing factors that suggest that, if issued a license, the applicant or licensee may create a risk to public safety’ and inserting in place thereof the following words: - reliable, articulable and credible information that the applicant or licensee has exhibited or engaged in behavior that suggests that, if issued a license, the applicant or licensee may create a risk to public safety or a risk of danger to self or others.

SECTION 46. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 225, the word ‘may’ and inserting in place thereof the following word: - shall.

SECTION 47. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 239 to 240, inclusive, the words ‘, suspension or restriction placed on a license’ and inserting in place thereof the following word: - or suspension of a license.

SECTION 48. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 244 to 246, inclusive, the words ‘or, in the case of a restriction, any time after a restriction is placed on the license pursuant to this section’.

SECTION 49. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 250, the words ‘, revoking or restricting’ and inserting in place thereof the following words: - or revoking.

SECTION 50. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 253 to 254, inclusive, the words ‘or may order the licensing authority to remove certain restrictions placed on the license’.

**UNCORRECTED PROOF.**

SECTION 51. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 266 to 267, inclusive, 348, 360 to 361, inclusive, 409 to 410, inclusive, and 424, each time they appear, the words ‘executive director of the criminal history systems board’ and inserting in place thereof the following words: - commissioner of the department of criminal justice information services.

SECTION 52. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 277 to 280, inclusive, the words ‘6 years from the date of issue and shall expire on the anniversary of the licensee’s date of birth occurring not less than 5 years nor more than 6 years from the date of issue’ and inserting in place the following words: - 3 years from the date of issuance.

SECTION 53. Said section 131 of said chapter 140, as so appearing, is hereby further amended by inserting after the words ‘revoked.’, in line 321, the following words: - For the purposes of this section, a previously issued, valid license to carry or possess firearms shall expire pursuant to its original term.

SECTION 54. Subsection (i) of said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out the third sentence.

SECTION 55. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 325, the words ‘Class A or Class B’.

SECTION 56. Section 131F of said chapter 140, as so appearing, is hereby amended by inserting after the word ‘firearms’, in line 1, the following words: - , rifles or shotguns.

SECTION 57. Said section 131F of said chapter 140, as so appearing, is hereby further amended by striking out, in line 2, the word ‘may’ and inserting in place thereof the following word: - shall.

SECTION 58. Said section 131F of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 6 to 8, inclusive, the words ‘and subject to such terms and conditions as said colonel may deem proper; provided, however, that no license shall be issued to a person who:’ and inserting in place thereof the following words:— in accordance with the provisions of section 131 if it appears that the applicant is not a prohibited person or is not determined unsuitable to be issued a license as set forth in that said section 131.

SECTION 59. Said section 131F of said chapter 140, as so appearing, is hereby further amended by striking out paragraphs (i) through (x).

SECTION 60. Said section 131F of said chapter 140, as so appearing, is hereby further amended by striking out, in line 55, the words ‘, if in his discretion,’ and inserting in place thereof the following word: - if.

SECTION 61. Said section 131F of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 57 to 58, inclusive, the words ‘The colonel may issue such license, subject to such terms and conditions as he deems proper,’ and inserting in place thereof the following words: - The colonel shall issue such license in accordance with the provisions of section 131.

SECTION 62. Said section 131F of said chapter 140, as so appearing, is hereby further amended by striking out, in line 65, the word ‘may’ and inserting in place thereof the following word: - shall.”.

Mr. Jones of North Reading thereupon raised a point of order that the amendment offered by the gentleman from Stoneham was improperly before the House for the reason that it went beyond the scope of the pending bill.

Point of order.

The Speaker ruled that the point of order was not well taken.

Ms. Ferguson of Holden thereupon asked for a count of the House to ascertain if a quorum was present. A count showed that 137 members were in attendance.

Quorum.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Day of Stoneham; and on the roll call 120 members voted in the affirmative and 33 in the negative.

[See [Yea and Nay No. 226 in Supplement.](#)]

Therefore the amendment was adopted.

Subsequently a statement of Mr. Rogers of Norwood was spread upon the records of the House as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call, it was my intention to vote in the negative. However, I now find that, for some inexplicable reason, I was recorded in the affirmative.

Mr. Ramos of Springfield and other members of the House then moved to amend the bill by adding the following section:—

SECTION 63. Chapter 6 of the General Laws, as amended by chapter 253 of the acts of 2020, is hereby amended by striking section 220 and inserting in place thereof the following section: -

Section 220. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

‘Biometric surveillance technology’, any computer software that performs facial recognition or other remote biometric recognition.

‘Facial recognition’, an automated or semi-automated process that assists in identifying or verifying an individual or analyzing or capturing information about an individual based on the physical characteristics of an individual’s face, head or body, or that uses characteristics of an individual’s face, head or body to derive information about the associations, activities or location of an individual; provided, however, that ‘facial recognition’ shall not include the use of search terms to sort images in a database.

‘Facial recognition search’, the use of facial recognition to analyze an image.

‘Law enforcement agency’, as defined in section 1 of chapter 6E.

‘Law enforcement officer’ or “officer”, as defined in section 1 of chapter 6E.

‘Other remote biometric recognition’, an automated or semi-automated process that assists in identifying or verifying an individual or analyzing or capturing information about an individual based on an individual’s gait, voice or other biometric characteristic or that uses such characteristics to derive information about the associations, activities or location of an individual; provided, however, that “other remote biometric recognition” shall not include the identification or verification of an individual using deoxyribonucleic acid, fingerprints, palm prints or other information derived from physical contact.

‘Public agency’, any: (i) agency, executive office, department, board, commission, bureau, division or authority of the commonwealth; (ii) political subdivision thereof; or (iii) authority established by the general court to serve a public purpose.

‘Public official’, any officer, employee, agent, contractor or subcontractor of any public agency.

(b) Absent express authorization in a general or special law to the contrary, it shall be unlawful for a law enforcement agency or officer to acquire, possess, access, use, assist with the use of or provide resources for the development or use of any biometric surveillance technology, or to enter into a contract with or make a request to a third party, including any federal agency, for the purpose of acquiring, possessing, accessing or using information derived from a biometric surveillance technology.

Amendment adopted,—  
yea and nay  
No. 226.

Statement of  
Mr. Rogers  
of Norwood.

Except in a judicial proceeding alleging a violation of this section, no information obtained in violation of this section shall be admissible in any criminal, civil, administrative or other proceeding.

(c) The registrar of motor vehicles may acquire, possess, or use facial recognition technology to verify an individual's identity when issuing licenses, permits or other documents pursuant to chapter 90; provided, however, that the registrar shall not allow any other entity to access or otherwise use its facial recognition technology except in accordance with subsection (d).

(d) The department of state police may perform a facial recognition search, or request the federal bureau of investigation to perform such a search, for the following purposes:

(1) to execute a warrant duly authorized by a judge based on probable cause that an unidentified or unconfirmed individual in an image has committed a felony;

(2) upon reasonable belief that an emergency involving immediate danger of death or serious physical injury to any individual or group of people requires the performance of a facial recognition search without delay;

(3) to identify a deceased person; or

(4) on behalf of another law enforcement agency or a federal agency, provided that such agency obtained a warrant pursuant to clause (1) or documented in writing the reason for a search requested under clauses (2) or (3).

One facial recognition operations group within the department shall be charged with receiving and evaluating law enforcement requests for facial recognition searches, performing facial recognition searches, reporting results, and recording relevant data. The department shall only use existing facial recognition technology used by the registrar of motor vehicles or federal bureau of investigations or facial recognition technology approved by the executive office of technology services and security, which may only be approved following a public hearing on the proposed software.

Any search performed or search request made to the federal bureau of investigation under this section shall be documented in writing.

(e) For any emergency facial recognition search performed or requested under subsection (d)(2), the law enforcement agency shall immediately document the factual basis for its belief that an emergency requires the performance of such a search without delay, and any emergency facial recognition search shall be narrowly tailored to address the emergency. Not later than 48 hours after the law enforcement agency obtains access to the results of a facial recognition search, the agency shall file with the superior court in the relevant jurisdiction a signed, sworn statement made by a supervisory official of a rank designated by the head of the agency setting forth the grounds for the emergency search.

(f) All individuals charged with a crime who were identified using a facial recognition search under this subsection shall be provided notice that they were subject to such search, pursuant to rule 14 of the rules of criminal procedure. Law enforcement agencies and district attorneys must make readily available to defendants and their attorneys in criminal prosecutions all records and information pertaining to any facial recognition searches performed or requested during the course of the investigation of the crime or offense that is the object of the criminal prosecution. This information shall include, but not be limited to, the results of the facial recognition search (including other possible matches identified by the search), as well as records regarding the particular program or algorithm used to conduct the facial recognition search, the accuracy rate of the facial recognition system, any audit testing of the facial recognition system, the identity of the individual or individuals who

conducted the facial recognition search, training provided to law enforcement officials involved in conducting facial recognition searches, and the process by which the defendant was selected as the most likely match.

(g) The department shall document, as a public record, each facial recognition search request and each facial recognition search performed pursuant to this section and report this information quarterly to the executive office of public safety and security. Reported information shall include: the date and time of the search or request; the system used for the search; the specific criminal offense or offenses under investigation; the number of matched individuals returned, if any; the name and position of the requesting individual and employing law enforcement agency; a copy of the warrant or, if no warrant exists, a copy of the written emergency request; and data detailing the individual characteristics included in the facial recognition search or request, including the presumed race and gender of the person in the probe image(s), as assessed by the officer conducting the search.

(h) Annually, not later than March 31, the executive office of public safety and security shall publish on its website the following data for the previous calendar year: (i) the total number of facial recognition searches performed by the department of state police, disaggregated by law enforcement agency or federal agency on whose behalf the search was performed; (ii) the total number of facial recognition searches performed by the federal bureau of investigation on behalf of law enforcement agencies, disaggregated by law enforcement agency on whose behalf the search was performed. For each category of data and each law enforcement agency, the published information shall include: the number of searches performed pursuant to a warrant, by alleged offense; the number of searches performed pursuant to an emergency; and the race and gender of the subjects of the searches, as assessed by the officer conducting the search.

(i) Each non-law enforcement public agency shall document, as a public record, each facial recognition search requested and each facial recognition search performed by its public officials and report this information quarterly to the executive office of public safety and security. Reported information shall include: the date and time of the search or request; the name and position of the requesting individual; the reason for the search or request; the name, position, and employer of the individual who conducted the search; the system used for the search; the number of matched individuals returned, if any; and data detailing the individual characteristics included in the facial recognition search or request, including the presumed race and gender of the person in the probe image(s), as assessed by the individual conducting the search.

(j) Annually, not later than March 31, the executive office of public safety and security shall publish on its website the following data for the previous calendar year: (i) the total number of facial recognition searches performed by or at the request of non-law enforcement public agencies, disaggregated by the public agency on whose behalf the search was performed. For each public agency, the published information shall include the race and gender of the subjects of the searches, as assessed by the individual conducting the search.

(k) Notwithstanding subsection (b), it shall be unlawful for a law enforcement agency or officer to use a biometric surveillance system to infer a person's emotions or affect. It shall also be unlawful for a law enforcement agency or officer to use a biometric surveillance system to analyze moving images or video data, whether in real time or as applied to archived information; provided, however, that facial recognition may be used on a still image taken from moving images or video data if authorized pursuant to subsection (d).



(l) Notwithstanding subsection (b), a law enforcement agency or officer may: (i) acquire and possess personal electronic devices, such as a cell phone or tablet, that utilize facial recognition technology for the sole purpose of user authentication; (ii) acquire, possess and use automated video or image redaction software; provided, that such software does not have the capability of performing facial recognition or other remote biometric recognition; and (iii) receive evidence related to the investigation of a crime derived from a biometric surveillance technology; provided, that the use of a biometric surveillance technology was not knowingly solicited by a law enforcement agency or officer in violation of subsection (b).

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 149 members voted in the affirmative and 4 in the negative.

**[See [Yea and Nay No. 227](#) in Supplement.]**

Therefore the amendment was adopted.

Representatives Markey of Dartmouth and Straus of Mattapoisett then moved to amend the bill in section 2, in item 0330-6000, in line 25, by inserting after the word “court” the words “provided further, that projects funded in this item shall include technology for direct electronic video conferencing with registrars’ and magistrates’ offices of the trial court during hours of operation for attorneys and members of the public”; and the amendment was adopted.

Mr. Gentile of Sudbury then moved to amend the bill in section 2B, in line item 0330-6002, in line 51, by inserting after the word “system” the following: “; provided further, that not less than \$500,000 shall be expended for the improvement and modernization of the information technology systems at the Framingham and Natick District Court”; and in said item by striking out the figures: “35,000,000” and inserting in place thereof the figures: “35,500,000”.

The amendment was adopted.

Representatives Cabral of New Bedford and Markey of Dartmouth then moved to amend the bill adding the following section:

“SECTION 64. provided further, that the unexpended balance in item 1102-5700, as authorized pursuant to chapter 113 of the acts of 2018, shall be expended for the costs of the reconstruction or replacement of court facilities located in the downtown area of the city of New Bedford.”.

The amendment was adopted.

Mr. Murray of Milford then moved to amend the bill by adding the following section:

“SECTION 65. (a). Section 1 of chapter 188 of the General Laws is hereby amended by striking the definition of ‘Declared homestead exemption’ and inserting in place thereof the following: ‘Declared homestead exemption’, an exemption in the amount of \$500,000 created by a written declaration, executed and recorded pursuant to section 5; provided, however, that: (1) with respect to a home owned by joint tenants or tenants by the entirety who are benefited by an estate of homestead declared pursuant to section 3, the declared homestead exemption shall remain whole and unallocated, provided that the owners together shall not be entitled to a declared homestead exemption in excess of \$500,000; (2) if a home is owned by tenants in common or trust beneficiaries, the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to said section 3 shall be the product of: (i) \$500,000 divided by (ii) the number of co-tenants or trust beneficiaries who reside in the home as a principal residence; (3) except as provided in clause (4), each person who owns a home and who is benefited by an estate of homestead declared pursuant to section 2 shall be entitled to the declared

Amendment  
adopted,—  
yea and nay  
No. 227.

homestead exemption without reduction, proration or allocation among other owners of the home; and (4) separate estates of homestead may be declared pursuant to sections 2 and 3 on the same home, and in such event: (i) if the home is owned by tenants in common or trust beneficiaries, the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to section 3 shall be calculated in the manner provided in clause (2), and the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to section 2 shall be calculated in the manner provided in clause (3); or (ii) if the home is owned by joint tenants or tenants by the entirety, the declared homestead exemption for the owners together shall be the sum of \$500,000 multiplied by the number of declarations recorded pursuant to section 2, plus \$250,000; provided, however, that the homestead exemption under this subclause shall remain whole and unallocated among the owners; and provided further, that no owner who declares a homestead, acting individually, shall be entitled to claim an exemption of more than \$500,000; and (5) the calculation of the amount of homestead exemption available to an owner shall not sever a joint tenancy or tenancy by the entirety.

(b). Said section 1 of chapter 188 is hereby amended by striking the definition of 'Owner' and inserting in place thereof the following: 'Owner', a natural person who is a sole owner, joint tenant, tenant by the entirety, tenant in common, life estate holder, remainderman or holder of a present, vested and non-contingent beneficial interest in a trust, including any of the foregoing who is a lessee-shareholder of a residential cooperative housing unit.

(c). Subsection (b) of section 3 of said chapter 188 is hereby amended by striking clause (6) and inserting in place thereof the following: (6) upon an execution issued from a court of competent jurisdiction to enforce its judgment based upon fraud, duress, undue influence or lack of capacity.

(d). Section 10 of said chapter 188 is hereby amended by striking subsections (a) and (b) and inserting in place thereof the following two subsections: (a) An estate of homestead created under section 3 or 4 may be terminated by any of the following methods: (1) a deed to a non-family member conveying the home, signed by the owner and, if any, a non-owner spouse or former spouse who resides in the home as a principal residence as of the date of the deed, provided however, that a deed to a trustee of a trust for the benefit of a grantor shall not terminate that grantor's existing homestead, which shall continue as to the interest of that grantor as trust beneficiary; (2) a recorded release of the estate of homestead, duly signed and acknowledged by the owner and, if any, a non-owner spouse or former spouse who resides in the home as a principal residence as of the date of the release, which release may be executed by those persons either separately or jointly; (3) the abandonment of the home as the principal residence by the owner, the owner's spouse, former spouse or minor children, except that such abandonment shall terminate only the rights of the persons who have abandoned the home; provided, however, that no person in military service as defined in 50 U.S.C. appendix, section 511 shall be deemed to have abandoned the home due to such military service; (4) in the case of a home the title to which is held in trust, by either: (i) the execution of a deed or a release of homestead by the trustee; or (ii) action of a beneficial owner identified in the declaration, who is not a minor child, taken in the same manner as provided in clauses (2) and (3); (5) the subsequent recorded declaration of an estate of homestead under section 3 on other property, except that such declaration shall terminate only the rights of the owner making such subsequent declaration and the rights of that owner's spouse and minor children who reside or intend to reside in the other property as their principal residence; (6) a deed



setting forth (i) that the grantor is unmarried or (ii) that the property is either not a home or not the grantor's home; (7) a deed that includes a statement certified under the penalties of perjury that (i) there is no spouse or former spouse entitled to an estate of homestead or (ii) the property is not the home of the grantor's spouse or former spouse. (8) a recorded affidavit pursuant to section 5B of chapter 183 setting forth that, at the time of delivery of a deed, mortgage or other instrument of conveyance to a non-family member, (i) the grantor was unmarried, or (ii) the grantor had no spouse or former spouse entitled to claim the benefit of an existing estate of homestead, or (iii) the property was not a home, or (iv) the property was not the home of the grantor or the grantor's spouse or former spouse. The affidavit may be recorded simultaneously or subsequent to the deed, mortgage or other instrument of conveyance; (9) a divorce judgment or decree of a court of competent jurisdiction shall release the homestead of a spouse who (a) is required therein to convey title to the home to the other spouse, or (b) was not an owner of the home and was not awarded therein either title or possessory rights in the home; (b) No deed between spouses or former spouses or co-owners who individually or jointly hold an estate of homestead under section 3 or section 4 and no deed between a trustee and a trust beneficiary or between a life tenant and a remainderman shall terminate the homestead unless each co-owner, spouse, former spouse, trust beneficiary or remainderman entitled to the benefit of the homestead has executed an express release thereof pursuant to clause (2) or clause (4) of subsection (a).

(e). Section 11 of said chapter 188 is hereby amended by striking subsection (a) and inserting in place thereof the following: (a) If a home that is subject to an estate of homestead is sold, whether voluntarily or involuntarily, taken or damaged by fire or other casualty, then the proceeds of any such sale, taking or damage shall be entitled to the protection of this chapter during the following periods: (1) in the event of a sale, whether voluntary or involuntary, or a taking, for a period ending on the date on which the person benefited by the homestead either acquires another home the person intends to occupy as a principal residence or 1 year after the date on which the sale or taking occurred, whichever first occurs; and (2) in the event of a fire or other casualty, for a period ending on: (i) the date upon which the reconstruction or repair to the home is completed or the date on which the person benefited by the homestead acquires another home the person intends to occupy as a principal residence; or (ii) 2 years after the date of the fire or other casualty, whichever first occurs.

(f). Said chapter 188 is hereby amended by striking section 13 and inserting in place thereof the following section: Section 13. A recorded deed, release, mortgage, affidavit or other instrument of conveyance containing a statement of any facts set forth in clauses (6), (7) or (8) of subsection (a) of section 10 may be relied upon by a good faith purchaser for value and shall be conclusive proof of the parties, if any, then entitled to claim an estate of homestead. An affidavit pursuant to clause (7) of subsection (a) of section 10 shall be accepted in the appropriate registry of deeds or registration district of the land court. The subsequent residency or renewal of residency in the home by a grantor or spouse of the grantor, releaser or mortgagor shall not defeat the priority of a mortgage, release or conveyance accepted in reliance on such recorded deed, release, mortgage, affidavit or other instrument of conveyance.

(g) The provisions of this Act shall apply to estates of homestead arising or created before, on or after the effective date, except with respect to the subject matter of any final judgment to the contrary by a court of competent jurisdiction in an action commenced prior to said effective date.”

The amendment was adopted.

Ms. Nguyen of Andover then moved to amend the bill by adding the following section:—

“SECTION 66. Section 20J of Chapter 233 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by inserting after the word ‘worker’ in line 10, the following words:— ‘, licensed mental health counselor’; and the amendment was adopted.

Representatives González of Springfield and Williams of Springfield then moved to amend the bill in section 2, in line item 0330-6000, by inserting after the words “judicial court and appeals court;” the following: “; provided further, that not less than \$500,000 shall be expended for New England Partners in Faith and Omnipoint Technology to provide affordable and free internet service to the lowest income residents, with limited internet access, impacted by the Judicial system, to promote equitable access to virtual filing and appearance services of the court, court services, and public safety services in Liberty Heights, Memorial Square, South End, Old Hill, Upper Hill, Six Corners, Bay, Pine Point, McKnight neighborhoods and any other low-income neighborhood of Springfield”; and in said item by striking out the figures: “94,000,000” and inserting in place thereof the figures: “94,500,000”.

The amendments were adopted.

Mr. Vargas of Haverhill and other members of the House then moved to amend the bill in section 2, in line item 0330-6000, by inserting after the words “judicial court and appeals court” the following: “; provided further, that not less than \$1,000,000 shall be expended for the parole board of the department of correction to record and securely store audio recordings of parole board hearings”; and in said item by striking out the figures: “94,500,000” (inserted by amendment) and inserting in place thereof the figures: “95,000,000” [sic]; and

By inserting after section 3 the following section:

“SECTION 3A. Chapter 127 of the General Laws is hereby amended by adding the following section:—

Section 170. The parole board shall record and securely store all audio for all parole board hearings. Audio from each parolee's hearing(s) shall be securely stored and may only be deleted when that individual is no longer on parole or is deceased.”.

The amendments were adopted.

Mr. Day of Stoneham then moved to amend the bill in section 2B, in item 0330-6002, in line 51, by inserting after the word “system” the words “; provided further, that projects funded from this item include costs associated with equipping the land court, the secretary of state and the registries of deeds with the technology required to process real property conveyance documents executed through remote online notarization”;

By inserting after section 28 the following 13 sections:

“SECTION 28A. Chapter 221 of the General Laws is hereby amended by inserting after section 46D the following section:—

Section 46E. (a) With respect to real estate closings involving the use of communication technology, as defined in chapter 222, the following words, as used in this section, shall, unless the context clearly requires otherwise, have the following meanings:

‘Closing,’ the consummation of a transaction between parties for the purpose of granting a mortgage or otherwise transferring title to real property, including the execution of documents necessary to accomplish the valid and proper transfer of title and the transfer of the consideration for the conveyance, whether done simultaneously with or subsequent to the execution of documents for the transfer of title; provided,

however, that a closing shall not include any transaction in which the consideration for the transfer of title is evidenced solely by a home equity loan or line of credit that is secured by a mortgage on a residential dwelling with 4 or fewer separate households, does not involve the issuance of a lender's or mortgagee's policy of title insurance in connection with such transaction, and is to be retained by the lender and not sold on the secondary mortgage market.

'Creditor', a person or entity that holds or controls, partially, wholly, indirectly, directly or in a nominee capacity, a mortgage loan securing real property, including, but not limited to, an originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage Electronic Registration System or mortgage servicer, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided, that "creditor" shall also include any servant, employee, representative or agent of a creditor.

(b) Notwithstanding any general or special law to the contrary, no person, unless that person has been admitted as an attorney in the commonwealth and has not been disqualified from the practice of law due to resignation, disbarment or suspension or placed on inactive status, shall (i) direct or manage a closing; or (ii) take the following actions in preparation for, or in furtherance of, a closing:

- (1) giving or furnishing legal advice as to the legal status of title;
- (2) ensuring that the seller, or the borrower-mortgagor in a mortgage refinancing transaction, is in a position to convey marketable title to the residential property at issue;
- (3) issuing a certification of title pursuant to section 70 of chapter 93;
- (4) drafting a deed to real property on behalf of another;
- (5) ensuring that the documents necessary for the transfer of title are executed and acknowledged in accordance with the laws of the commonwealth; or
- (6) disbursing, or managing the disbursement, of consideration for the conveyance.

(c) The attorney general may initiate an action, including a petition for injunctive relief, against any person or creditor whose violation of this section is part of a pattern, or consistent with a practice, of noncompliance. The supreme judicial court and the superior court shall have concurrent jurisdiction in equity. A person having an interest or right that is or may be adversely affected by a violation of this section may initiate an action against the person or creditor for private monetary remedies.

SECTION 28B. Chapter 222 of the General Laws is hereby amended by striking out section 1, as appearing in the 2020 Official Edition, and inserting in place thereof the following section:—

Section 1. For the purposes of this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

'Acknowledgment', a notarial act in which an individual, at a single time appears in person before a notary public, is identified by the notary public through satisfactory evidence of identity and presents a document or electronic record to the notary public and indicates to the notary public that the signature on the document or record before the notary was voluntarily affixed by the individual for the purposes stated within the document or electronic record or that the signature on the document or electronic record was the individual's free act and deed and, if applicable, that the individual was authorized to sign in a particular representative capacity.

'Affirmation', a notarial act, or part thereof, that is legally equivalent to an oath and in which an individual, at a single time appears in person before a notary public, is identified by the notary public through satisfactory evidence of identity and makes

a vow of truthfulness or fidelity while appearing before the notary public under the penalties of perjury without invoking a deity.

‘Appears in person’, ‘appears personally’, or ‘personally appears’, (i) being in the same physical location as another individual and close enough to see, hear, communicate with and exchange tangible identification credentials with that individual; or (ii) interacting with a remotely-located individual by means of communication technology in compliance with section 28.

‘Communication technology’, an electronic device or process that allows a notary public and a remotely-located individual to communicate with each other simultaneously by sight and sound, and when necessary and consistent with other applicable laws, facilitates communication with a remotely-located individual with a vision, hearing or speech impairment.

‘Copy certification’, a notarial act in which a notary public is presented with a document that the notary public copies, or supervises the copying thereof, by a photographic or electronic copying process, compares the original document to the copy and determines that the copy is accurate and complete.

‘Credential analysis’, a process or service that meets guidelines established by the secretary, through which a third person affirms the validity of a current government-issued identification credential by review of public and proprietary data sources.

‘Credible witness’, an honest, reliable and impartial person who personally knows an individual appearing before a notary and who takes an oath or affirmation before the notary to vouch for that individual’s identity.

‘Dynamic knowledge-based authentication’, a form of identity proofing based on a set of questions that pertain to an individual and are formulated from public or proprietary data sources.

‘Electronic’, relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

‘Electronic record’, information that is created, generated, sent, communicated, received or stored by electronic means.

‘Electronic signature’, an electronic sound, symbol or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

‘Foreign state’, a jurisdiction other than the United States, a state or a federally recognized Indian tribe.

‘Identity proofing’, a process or service that meets the guidelines established by the secretary, by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources, which may include credential analysis, dynamic knowledge-based authentication, analysis of biometric data including, but not limited to, facial recognition, voiceprint analysis or fingerprint analysis or other means permitted by the secretary.

‘Journal’, a chronological record of notarial acts performed by a notary public.

‘Jurat’, a notarial act in which an individual, at a single time appears in person before a notary public, is identified by the notary public through satisfactory evidence of identity and: (i) presents a document or electronic record; (ii) signs the document or electronic record in the presence of the notary public; and (iii) takes an oath or affirmation before the notary public vouching for the truthfulness or accuracy of the contents of the signed document or electronic record.

‘Notarial act’ or ‘notarization’, an act that a notary public is empowered to perform, including acts performed electronically in accordance with this chapter.

‘Notarial certificate’, the part of or attachment to a notarized document or electronic record for completion by the notary public that bears the notary public’s signature and seal and states the venue, date and facts that are attested by the notary public in a particular notarial act or notarization.

‘Notary public’ or ‘notary’, a person commissioned to perform official acts pursuant to Article IV of the Amendments of the Constitution.

‘Notarial seal,’ (i) a physical image or impression affixed, stamped or embossed on a tangible record; or (ii) an electronic image attached to, or logically associated with, an electronic record.

‘Oath’, a notarial act, or part thereof, that is legally equivalent to an affirmation and in which an individual, at a single time, appears in person before a notary public, is identified by the notary public through satisfactory evidence of identity and takes a vow of truthfulness or fidelity under the penalties of perjury by invoking a deity.

‘Official misconduct’, a violation of sections 13 to 24, inclusive, or any other general or special law in connection with a notarial act or a notary public’s performance of an official act in a manner found to be grossly negligent or against the public interest.

‘Personal knowledge of identity’, familiarity with an individual resulting from interactions with that individual over a period of time sufficient to ensure beyond doubt that the individual is the person whose identity is claimed.

‘Principal’, a person whose signature is notarized or a person taking an oath or affirmation before a notary public.

‘Record’, information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

‘Regular place of work or business’, a place where an individual spends a substantial portion of their working or business hours.

‘Remotely-located individual’, an individual who is not in the physical presence of the notary public who performs a notarial act pursuant to section 28 of this chapter.

‘Satisfactory evidence of identity’, identification of an individual based on: (i) at least 1 current document issued by a United States or state government agency bearing the photographic image of the individual’s face and signature; (ii) the oath or affirmation of a credible witness unaffected by the document or transaction who is personally known to the notary public and who personally knows the individual; or (iii) identification of an individual based on the notary public’s personal knowledge of the identity of the principal; provided, however, that for a person who is not a United States citizen, ‘satisfactory evidence of identity’ shall mean identification of an individual based on a valid passport or other government-issued document evidencing the individual’s nationality or residence and which bears a photographic image of the individual’s face and signature. For purposes of a notarial act performed using communication technology for a remotely-located individual, ‘satisfactory evidence of identity’ shall be determined pursuant to section 28.

‘Secretary’, the secretary of the commonwealth.

‘Signature witnessing’, a notarial act in which an individual, at a single time, appears in person before a notary public, is identified by the notary public through satisfactory evidence of identity and presents a document or electronic record and signs the document or electronic record in the presence of the notary public.

‘Tamper evident’, the use of a set of applications, programs, hardware, software or other technologies that will display evidence of any changes to an electronic record.

‘Tangible journal’, a journal created on a fixed tangible medium in a permanent bound register with numbered pages.



‘United States’, a location within the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States.

SECTION 28C. Section 1A of said chapter 222, as so appearing, is hereby amended by striking out the figure ‘26’, in line 6, and inserting in place thereof the following figure:— 29.

SECTION 28D. Section 8 of said chapter 222, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b)(1) A notary public shall keep an official notarial seal that shall be the exclusive property of the notary public. A notary public shall not permit another to use such notarial seal. A notary public shall obtain a new seal upon renewal of the commission, upon receipt of a new commission or if the name of the notary public has changed. The notarial seal shall include: (i) the notary public’s name exactly as indicated on the commission; (ii) the words ‘notary public’ and ‘Commonwealth of Massachusetts’ or ‘Massachusetts’; (iii) the expiration date of the commission in the following words: ‘My commission expires \_\_\_’; and (iv) a facsimile of the seal of the commonwealth.

(2) If a notarial seal that requires ink is employed, black ink shall be used. The seal of a notary public may be a digital image that appears in the likeness or representation of a traditional physical notary public seal. Only the notary public whose name and registration number appear on an electronic seal shall affix that seal. If the seal is electronically generated, it shall include the words ‘Electronically affixed’. The requirements of this subsection shall be satisfied by using a seal that includes all of the information required by this section. Failure to comply with this section shall not affect the validity of any instrument or the record thereof.

SECTION 28E. Section 16 of said chapter 222, as so appearing, is hereby amended by inserting after the word ‘notarization’, in line 3, the following words:— , except as specifically provided in this chapter.

SECTION 28F. Said section 16 of said chapter 222, as so appearing, is hereby further amended by inserting after the word ‘services’, in line 27, the following words:— ; provided further, that a notary public shall not be precluded from receiving an additional technology services fee that has been clearly disclosed in advance to the person requesting the service and that technology services fee reflects the actual reasonable cost to the notary public of utilizing a third-party technology service provider.

SECTION 28G. Section 18 of said chapter 222, as so appearing, is hereby amended by adding the following subsection:—

(e)(1) Whenever the secretary has cause to believe that a notary public registered pursuant to section 28 has engaged in a pattern of conduct, or a standard, practice or procedure that the secretary determines is contrary to section 46E of chapter 221, the secretary may order the notary public to comply with the law. The secretary may adopt regulations governing administrative proceedings under this section.

(2) The attorney general may enforce the order by civil action as provided in said section 46E.

(3) The remedies provided by this section shall not limit the availability of judicial remedies to any person or official.

SECTION 28H. Subsection (a) of section 22 of said chapter 222, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 3 sentences:— A journal may be created on a fixed tangible medium or in an electronic format. If the journal is maintained on a tangible medium, it shall be

a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with the rules of the secretary.

SECTION 28I Said section 22 of said chapter 222, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words ‘active journal at the same time’ and inserting in place thereof the following words:— tangible journal at any time. A notary may keep more than 1 electronic journal provided that each electronic journal conforms to the requirements of subsection (a).

SECTION 28J. Said section 22 of said chapter 222, as so appearing, is hereby further amended by striking out, in lines 33 and 34, the words ‘(3) the fee, if any, charged for the notarial act; and (4) the address where the notarization was performed’ and inserting in place thereof the following words:— (3) a notation indicating whether the notarial act was conducted in person or remotely; (4) the fee, if any, charged for the notarial act; and (5) the address where the notarization was performed; provided, that if the notarial act was performed remotely, the notary shall include the address of the notary and each principal and witness.

SECTION 28K. Said section 22 of said chapter 222, as so appearing, is hereby further amended by striking out, in lines 51 and 57, in each instance, the word ‘state’.

SECTION 28L. Said section 22 of said chapter 222, as so appearing, is hereby further amended by striking out subsection (i) and inserting in place thereof the following subsection:—

(i) If not in use, a journal shall be kept under the exclusive control of the notary public or a third-party technology service provider designated by the notary public, provided there is a mutual agreement by both the notary public and the third-party service provider, and shall not be used by any other notary public or surrendered to an employer upon termination of employment.

SECTION 28M. Said chapter 222 is hereby further amended by adding the following 3 sections:—

Section 27. (a) A notary public may select 1 or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) The secretary shall establish standards for approval of technologies for use by notaries public commissioned by the commonwealth.

(c) A tangible copy of an electronic record shall be accepted as the equivalent of an original document for purposes of recording said copy; provided, that: (i) the copy contains a notarial certificate that satisfies all requirements for an original document to be accepted for recording; (ii) the copy satisfies all requirements for recording an original document set forth in chapter 183 and chapter 185, as applicable; and (ii) the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

Section 28. (a) A notary public physically located in the commonwealth may perform a notarial act using communication technology for a remotely-located individual who is the principal in a notarial act if the notary public:

(i)(A) has personal knowledge of the identity of the remotely-located individual; (B) has identified the remotely-located individual by means of an oath or affirmation of a credible witness unaffected by the document or transaction who is personally known to the notary public and who personally knows the remotely-located individual; or (C) reasonably can identify the remotely-located individual by at least 2 different types of identity proofing processes or services;

(ii) is able to execute the notarial act in a single, real-time session;



(iii) is reasonably able to confirm that a record before the notary public is the same record in which the remotely-located individual made a statement or on which the remotely-located individual executed a signature; and

(iv) the notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act.

(b) A notary public physically located in the commonwealth may perform a notarial act using communication technology for a remotely-located individual who is the principal in a notarial act and is located outside the United States if: (i) the record is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States, or involves property located in the territorial jurisdiction of the United States or a transaction substantially connected with the United States; and (ii) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely-located individual is located.

(c) A notary public shall not use communication technology to notarize a record related to the electoral process, or a will, codicil or document purporting to be a will or codicil.

(d) Before a notary public performs the notary public's initial notarization using communication technology, the notary public shall: (i) register as a remote notary with the secretary; (ii) inform the secretary that the notary public will perform remote notarizations; and (iii) identify the communication technology that the notary public intends to use. The remote notarization system must conform to the requirements of this chapter and any rules adopted by the secretary. The notice shall be submitted in the form required by the secretary and shall: (A) include an affirmation that the notary public has read and will comply with this section and all rules adopted by the secretary; (B) be accompanied by proof that the notary public has successfully completed any training and examination required by this section or that may be required by the secretary; and (C) identify a usual place of business in this state or, if a foreign entity, identify a registered agent, and in either case identify an address for service of process in connection with a civil action or other proceeding.

(e) If a notarial act is performed pursuant to this section, the certificate of notarial act required by section 15 shall indicate that the notarial act was performed remotely using communication technology and identify the venue for the notarial act as the county within the commonwealth where the notary public was physically located while performing the notarial act.

(f) A notary public, a guardian, conservator or agent of a notary public or a personal representative of a deceased notary public shall retain the audio-visual recording created under clause (iv) of subsection (a) or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. The recording shall be retained for 10 years after the recording is made.

(g) Upon request, the notary public shall make available electronic copies of the pertinent entries in the electronic journal and provide access to any related audio-video communication recording to the following persons: (i) the parties to an electronic record notarized by the notary public; (ii) the title insurer reviewing an insured transaction in the context of an audit of its agent, if the agent conducted the electronic notarial act as an element of the insured transaction; and (iii) any other persons pursuant to a subpoena, court order, law enforcement investigation or other lawful inspection demand.

(h) The secretary shall establish standards for the use of communication technology and identity proofing. A notary public who uses communication technology shall conform to those standards.

(i) In addition to the authority set forth in subsection (h), the secretary may adopt rules under this section regarding performance of the notarial act. The rules may: (i) prescribe the means of performing a notarial act involving a remotely located individual using communication technology; (ii) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and (iii) establish standards for the retention of an audio-visual recording created under clause (iv) of subsection (a).

(j) By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely-located individual or by providing storage of the audio-visual recording created under clause (iv) of subsection (a), the provider of the communication technology, identity proofing or storage shall appoint the secretary as the provider's agent for service of process in any civil action in the commonwealth related to the notarial act.

(k) The following minimum standards shall apply to notarizations utilizing communication technology performed by a notary public in the commonwealth; provided, that the secretary may adopt rules setting standards that are equally or more protective:

(i) Identity proofing by means of dynamic knowledge-based authentication that shall have, at a minimum, the following security characteristics:

(A) the remotely located individual shall be presented with 5 or more questions with a minimum of 5 possible answer choices per question;

(B) each question shall be drawn from a third-party provider of public and proprietary data sources and shall be identifiable to the social security number or other identification information of the remotely located individual, or such individual's identity and historical events records;

(C) responses to all questions shall be made within a 2-minute time constraint;

(D) the remotely-located individual must answer a minimum of 80 per cent of the questions correctly;

(E) if the remotely-located individual fails the first attempt, the individual may be offered 1 additional attempt within 24 hours of the initial failed attempt; and

(F) during the second attempt, the remotely located individual may not be presented with more than 3 questions from the prior attempt.

(ii) Identity proofing by means of credential analysis using 1 or more commercially available automated software or hardware processes that, consistent with sound commercial practices, (A) aid the notary public in verifying the authenticity of the credential by analyzing the integrity of visual, physical or cryptographic security features to indicate that the credential is not fraudulent or inappropriately modified; and (B) use information held or published by the issuing source or authoritative source to confirm the validity of credential details. The results of the credential analysis process shall be provided to the notary public performing the notarial act.

(iii) Use of audio-video communication technology in completing notarizations that shall meet the following requirements: (A) the signal transmission shall be reasonably secure from interception, access or viewing by anyone other than the participants communicating; and (B) the technology shall provide sufficient audio clarity and video resolution to enable the notary to communicate with the remotely-located individual and any witness, and to confirm the identity of the remotely-located individual and any witness, as required, using identity proofing.

(iv) The communication technology shall have satisfied tamper-evident technology requirements by use of technology that renders any subsequent change or modification to the electronic record evident.

(v) With respect to notarial acts conducted during a closing, as defined in section 46E of chapter 221, the communication technology shall be engaged by the closing attorney with the approval of the lender. Upon successful verification of the identity of the remotely-located individual by the notary as required by paragraph (i) of subsection (a), such attorney shall enter and affirm the attorney's board of bar overseers registration number prior to the conduct of the first notarial act. The communication technology shall be responsible for recording such information in a manner that is logically associated with the transaction and shall retain such information for the same length of time and in the same manner as it retains all other information regarding the notarial act.

(vi) In addition to any coverage it elects to provide for individual notaries public, maintenance of errors and omissions insurance coverage by a communication technology service provider shall be provided in a total amount of at least \$250,000 in the annual aggregate with respect to potential errors or omissions in or relating to the technology or processes provided by the communication technology service provider. A notary public shall not be responsible for the security of the systems used by the remotely-located individual or others to access the notarization session.

(vii) Prior to a notary public's initial notarization using communication technology, the notary public shall complete a 2-hour in-person or online course addressing the duties, obligations and technology requirements for conducting remote notarizations offered by the secretary or a vendor approved by the secretary. Each such provider of communication technology shall make the in-person or online course generally available to all applicants. Regardless of membership in the provider's organization, the provider shall charge each attendee the same cost for the course unless the course is provided in conjunction with a regularly scheduled meeting of the provider's membership.

(l) Notwithstanding any general or special law to the contrary, with respect to any document executed in the course of a closing, as defined in section 46E of chapter 221, involving a mortgage or other conveyance of title to residential real property, only a notary public appointed pursuant to this chapter who is an attorney licensed to practice law in the commonwealth, or a non-attorney who is under the direct supervision of or acting pursuant to a direct request by the attorney directing or managing the closing, shall perform an acknowledgment, affirmation or other notarial act utilizing communication technology. The notarial certificate affixed to any such document shall recite the board of bar overseers registration number of the attorney notary, or of the supervising attorney for a document notarized by a non-attorney. Failure to comply with this section shall not affect the validity of the document or the recording thereof.

(m) The chief justice of the land court may promulgate rules, orders, guidelines, and directives concerning sections 27 and 28 of this chapter as they pertain to the execution, acknowledgment, and registration of documents affecting title to land whose title has been registered and confirmed by the land court pursuant to chapter 185.

Section 29. A notary public shall not use, sell, or offer to sell to another person, or transfer to another person for use or sale, any personal information obtained under section 28 that identifies a remotely-located individual, a witness to a remote notarization or a person named in a record presented for remote notarization, except: (i) as necessary to facilitate performance of a notarial act; (ii) to effect, administer, enforce, service or process a record provided by or on behalf of the individual or the transaction of which the record is a part; or (iii) in accordance with this section,

**UNCORRECTED PROOF.**

including the rules adopted pursuant thereto, or other applicable federal or state law, or to comply with a lawful subpoena or court order.”; and

By inserting after section 35 the following section:

“SECTION 35A. Sections 27, 28 and 29 of chapter 222 of the General Laws, as inserted by section 28M of this act, shall take effect on March 31, 2023.”.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Day of Stoneham; and on the roll call 159 members voted in the affirmative and 1 in the negative.

**[See [Yea and Nay No. 228](#) in Supplement.]**

Therefore the bill (House, No. 5076, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Bill passed to  
be engrossed,—  
yea and nay  
No. 228.

*Order.*

On motion of Ms. Hogan of Stow,—

*Ordered*, That when the House adjourns today, it adjourn to meet on Monday next at eleven o’clock A.M.

Next  
sitting.

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Mr. Jones of North Reading then moved that the House adjourn; and the motion prevailed. Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twenty-eight minutes before eight o’clock P.M. (the Speaker being in the Chair), the House adjourned, to meet the following Monday at eleven o’clock A.M., in an Informal Session.