

HOUSE No. 798

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

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 increasing voter registration and participation to help prevent recidivism.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/18/2021</i>

HOUSE No. 798

By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 798) of Russell E. Holmes relative to increasing voter registration and participation of people incarcerated for felony convictions to help prevent recidivism. Election Laws.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 669 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act increasing voter registration and participation to help prevent recidivism.

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. The General Court finds and declares that:
2 (1) Suffrage is the vanguard of civil rights and liberties and the cornerstone of
3 democracy. It is both a fundamental right and a civic responsibility. Reinstating the right to
4 suffrage fortifies our democracy by boosting voter turn-outs and helps ex-offenders upon their
5 release to reintegrate into society. Voting is an essential part to reassuming the duties of full
6 citizenship. Though Massachusetts recognizes these facts, Congress can do more to increase
7 voter participation by protecting eligible voters while incarcerated. Congress can also do more to
8 enhance voter registration among returning citizens and thereby help deter recidivism.

9 (2) Massachusetts people incarcerated for felony convictions cannot vote in any elections
10 in the state while incarcerated. As a result, approximately 8,234 people in Massachusetts are
11 currently denied the right to vote. Unfortunately the majority of these disfranchised citizens
12 come from the same communities, diminishing the voting power of these communities. From
13 2015 to 2018 over 60 per cent of those who received new criminal sentences were from just 4
14 counties: Suffolk county, Essex county, Middlesex county and Hampden county.

15 (3) Massachusetts disparately incarcerates people of color as well, so while people of
16 color make up 18.2 per cent of the state's population, 58 per cent (or 4,982) of people
17 disfranchised due to imprisonment are people of color. People incarcerated in prison for other
18 reasons, such as pre-trial detention or civil commitments, are allowed to vote by absentee ballot.

19 (4) Maine and Vermont are the only states that allow all incarcerated citizens to vote.

20 (5) Most of the approximately 9,800 people incarcerated in Massachusetts county jails
21 and houses of correction can vote in all federal, state, and municipal elections by absentee ballot
22 - as long as they are 18 years of age or older, United States citizens and are not incarcerated for
23 felony convictions or voter fraud. However, many jails and houses of correction across the state
24 do not help incarcerated people obtain absentee ballots, and in fact some give false information
25 regarding their voting eligibility. Even when incarcerated people have the funds and knowledge
26 to request an absentee ballot, some city and town clerks illegally reject these ballots, leaving
27 incarcerated people with little recourse.

28 (6) Massachusetts is one of 14 states that prohibit people from voting while incarcerated
29 in prison but return the right to vote immediately upon release, considered the least restrictive

30 category of offender disfranchisement. However, evidence suggest that many people assume
31 they remain disfranchised upon release.

32 (7) This bill would, though it requires the cooperation of different government agencies,
33 concentrate within the department of correction and houses of correction, the responsibility of
34 helping eligible voters in their custody obtain absentee ballots and the responsibility of initiating
35 the restoration by helping ineligible voters get pre-registered upon anticipation of their release.
36 Streamlining these processes conserves government resources and saves taxpayer dollars. This
37 act will also require the secretary of state to train city and town clerks on the laws relevant to this
38 act.

39 SECTION 2. Chapter 51 of the General Laws is hereby amended by adding the following
40 section:—

41 Section 65. (a) A correctional facility, as defined in section 1 of chapter 125, shall be a
42 designated agency for the registration of voters pursuant to 52 U.S.C. § 20506. Upon request, a
43 correctional facility shall provide voter absentee ballot applications to eligible voters within the
44 custody of the facility.

45 (b) The correctional facility shall either provide requesters with a sufficient size envelope
46 and postage stamps, or transmit the completed voter absentee ballot application to the
47 appropriate city or town clerk responsible for processing absentee ballot request applications in
48 the county where the requester claims residence.

49 (c) As part of the release process leading to the discharge of a person who has been
50 disfranchised because of a felony conviction, the correctional facility shall provide that person
51 with a voter registration form and a declination form, and offer that person assistance in filling

52 out the appropriate form. Unless the registrant refuses to permit it to do so, the correctional
53 facility shall provide registrant with a sufficient size envelope and postage stamps, or transmit
54 the completed voter registration form to the city or town in the county where the registrant
55 claims residence.

56 SECTION 3. Chapter 127 of the General Laws is hereby amended by inserting after
57 section 150 the following section:—

58 Section 150A. (a) Prior to the expiration of a prisoner’s term, the superintendent or
59 administrator of the state or county correctional facility shall, in writing, notify the prisoner
60 whose term expires that his or her voting rights shall be restored upon discharge; provided, that
61 such person’s right to vote was suspended while incarcerated pursuant to Article III of the
62 Articles of Amendment of the Constitution.

63 (d) Each superintendent of a state correctional facility and each administrator of a county
64 correctional facility shall, on or before the fifteenth day of each month, transmit to the secretary
65 of the commonwealth 2 lists. The first list shall contain the following information about persons
66 convicted of a felony who, during the preceding period, have become ineligible to vote because
67 of their incarceration; the second list shall contain the following information about persons
68 convicted of a felony who, during the preceding period, have become eligible to vote because of
69 their discharge from incarceration:

- 70 (i) name;
- 71 (ii) date of birth;
- 72 (iii) date of entry of judgement of conviction;

73 (iv) sentence; and

74 (v) last 4 digits of social security number, or driver's license number, if available.

75 (e) The state secretary shall ensure that the names of persons who are eligible and
76 registered to vote following their discharge from incarceration are added to the statewide voter
77 registration database in the same manner as all other names are added to that database.

78 (f) The state secretary shall ensure that persons who have become eligible to vote because
79 of their discharge from incarceration face no continued barriers to registration or voting resulting
80 from their felony convictions.

81 (g) The state secretary shall ensure that registrants who submitted registration forms upon
82 anticipation of release shall be pre-registered until finally discharged.

83 (h) The state secretary shall develop and implement a program to educate: attorneys;
84 judges; election officials; each superintendent of a state correctional facility and each
85 administrator of a county correctional facility; the department of correction and corrections
86 officials; including parole and probation officers; and members of the public about the
87 requirements of this section, ensuring that:

88 (i) Judges are informed of their obligation to notify defendants facing disfranchisement of
89 the potential loss and restoration of their voting rights, in accordance with section 29E of chapter
90 278;

91 (ii) The department of correction and county correctional facilities are prepared to help
92 eligible voters in their custody obtain absentee ballots, including providing sufficient size
93 envelopes and postage stamps for mailing, or by forwarding their completed absentee ballot

94 application to the appropriate elections official. The department of correction and county
95 correctional facilities are also prepared to assist those convicted of a felony with registration to
96 vote in anticipation of their discharge, including providing the registrant with sufficient size
97 envelope and postage stamps or by forwarding his or her completed voter registration forms to
98 the appropriate registration agency;

99 (iii) The language on voter registration forms makes clear that people who have been
100 disqualified from voting because of felony convictions regain the right to vote when they are
101 discharged from incarceration;

102 (iv) The department of correction is prepared to transmit to the state secretary the
103 information specified in this section;

104 (v) Probation and parole officers are informed and prepared to notify probationers that
105 their right to vote is restored; and

106 (vi) Accurate and complete information about the voting rights of people who have been
107 charged with or convicted of crimes; whether disfranchising or not, is made available through a
108 single publication to government officials and the public.

109 SECTION 4. Chapter 278 of the General Laws is hereby amended by inserting after
110 section 29D the following section:–

111 Section 29E. The court shall not accept a plea of guilty, a plea of nolo contendere, or an
112 admission to sufficient facts from any defendant in any criminal proceeding unless the court
113 advises such defendant of the following: “You are hereby advised that the acceptance by this
114 court of your plea of guilty, plea of nolo contendere, or admission to sufficient facts will result in

115 loss of the right to vote only if and for as long as you are incarcerated and your voting rights are
116 restarted upon discharge.” The court shall advise such defendant during every plea colloquy at
117 which the defendant is proffering a plea of guilty, a plea of nolo contendere, or an admission to
118 sufficient facts in any matter considered to be a felony pursuant to Article III of the Articles of
119 Amendments of the Constitution.

120 If the court fails so to advise the defendant, and the defendant later at any time shows that
121 the defendant’s plea and conviction may have or has had the enumerated consequence, the court,
122 on the defendant's motion, shall vacate the judgment, and permit the defendant to withdraw the
123 plea of guilty, plea of nolo contendere, or admission of sufficient facts, and enter a plea of not
124 guilty. Absent an official record or a contemporaneously written record kept in the court file that
125 the court provided the advisement as prescribed in this section, including but not limited to a
126 docket sheet that accurately reflects that the notice was given as required by this section, the
127 defendant shall be presumed not to have received advisement. An advisement previously or
128 subsequently provided the defendant during another plea colloquy shall not satisfy the
129 advisement required by this section.