

HOUSE No. 4140

The Commonwealth of Massachusetts

PRESENTED BY:

Nika C. Elugardo

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 to pilot ballot box initiatives in carceral settings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/18/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/24/2021</i>

HOUSE No. 4140

By Ms. Elugardo of Boston, a petition (accompanied by bill, House, No. 4140) of Nika C. Elugardo and Lindsay N. Sabadosa for legislation to establish a pilot program relative to furthering voting access for incarcerated persons. Election Laws.

The Commonwealth of Massachusetts

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

An Act to pilot ballot box initiatives in carceral settings.

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

3 “Correctional facility”, a correctional facility, as defined in section 1 of chapter 125 of
4 the General Laws, located within Suffolk county.

5 “State secretary”, the secretary of the commonwealth.

6 (b) Notwithstanding chapter 54 of the General Laws or any other general or special law
7 to the contrary, there shall be a pilot program, to be administered by the sheriff of Suffolk
8 county, relative to furthering voting access for incarcerated persons.

9 (c) The state secretary shall create and distribute voter information signs and information
10 to the sheriff of Suffolk county for distribution in correctional facilities not less than 90 days
11 prior to all municipal, state or presidential primary elections or general elections. The state

12 secretary shall create and distribute to election officers of each city and town in Suffolk county
13 information on: (i) the qualifications and rights of eligible incarcerated voters; (ii) regulations
14 detailing the application process and how to process eligible incarcerated voters in the Voter
15 Registration Information System; and (iii) current law pertaining to said rights and processes.

16 (d) The officer in charge of each correctional facility shall:

17 (1) publish policies and procedures, developed in consultation with local and state
18 elections officials, community groups and other stakeholders that govern the facilitation of
19 voting and voter registration for eligible voters in correctional facilities. These policies and
20 procedures shall include:

21 (i) distribution of voter education and election information in a manner consistent with
22 prison policies, including but not limited to disseminating notices about voting rights and
23 procedures from the state secretary;

24 (ii) providing assistance to eligible incarcerated persons to register to vote and apply for
25 absentee ballots in all primaries and elections as specially qualified voters, including distribution
26 of: (A) ballot request forms; (B) voter registration forms; (C) individual records that may serve
27 as proof of residence for the purpose of voter registration or provide voters with their last known
28 address, such as intake forms, arrest records or other forms in the possession of the correctional
29 facility; and (D) voter information packets generated by the state secretary, community groups or
30 other stakeholders;

31 (iii) providing for the expeditious and timely receipt and return of mail-in or absentee
32 ballots by eligible incarcerated persons; provided, that the officer in charge may facilitate timely
33 return of completed ballots by providing a secured drop box in coordination with the state

34 secretary, mailing the ballots to the appropriate city or town clerk or through any other secured
35 means of delivery; recognizing that incarcerated persons who are eligible voters may retain
36 residency outside of Suffolk county and in such cases more time may be afforded to securely
37 transfer ballots to respective local elections;

38 (iv) establishing locations where eligible incarcerated persons may complete ballots and
39 other paperwork in private;

40 (v) providing means of tracking incarcerated persons' complaints related to voting or
41 registration issues, the number of incarcerated persons who sought to vote and the outcome of
42 said complaints and requests; and

43 (vi) setting policies for collaborating with local elections officials, civic engagement
44 community groups and other stakeholders.

45 (2) hang or distribute any informational posters or packets provided by the state secretary
46 not later than July 15 of each even-numbered year, or, if received after that date, immediately
47 upon receipt; provided, that distribution and informational announcements shall continue through
48 the conclusion of any primary and general election.

49 (3) appoint a subordinate officer at the facility to supervise the actions required by this
50 section.

51 (4) file a written report with the state secretary, not later than 14 days before every
52 primary and general election, detailing the actions taken pursuant to this section in a form
53 prescribed by the state secretary; provided, that the report shall be a public record.

54 (e) The officer in charge of each correctional facility shall, on or before the fifteenth day
55 of each month, transmit to the state secretary lists containing information about persons: (1)
56 convicted of a felony who, during the preceding period, have become ineligible to vote because
57 of their incarceration; (2) convicted of a felony who, during the preceding period, have become
58 eligible to vote because of their discharge from incarceration; and (3) detained pre-trial or
59 convicted of a misdemeanor and incarcerated but eligible to vote. Each list shall include the
60 following information for each person listed: (i) name; (ii) date of birth; (iii) status as
61 incarcerated for a felony conviction, incarcerated but not disqualified or recently released; (iv)
62 last 4 digits of social security number or driver's license number, if available; (v) address on file;
63 (vi) race or ethnicity; and (vii) if held pretrial or serving a misdemeanor and eligible to vote, the
64 name and address of the jail, prison or other facility where the person is detained. Where this
65 information is not a matter of public record, the state secretary shall enter a memorandum of
66 understanding with the sheriff concerning the transmission of this data.

67 (f) The state secretary shall issue a report not later than 6 months following each primary
68 and general election. The report shall include information on: (1) the number of eligible
69 incarcerated voters at the time of an election by municipality; (2) the number of incarcerated
70 voters who requested an absentee ballot and the outcome of that request by municipality,
71 including the reasons for rejection if applicable; (3) the number of incarcerated voters who
72 requested to register to vote and the outcome of those requests by municipality, including the
73 reason for rejection if applicable; and (4) each municipality's policies and practices regarding
74 outreach and enfranchisement of eligible incarcerated voters, if applicable.

75 (g) If an individual's right to vote was suspended while incarcerated pursuant to article III
76 of the articles of amendment to the constitution, the officer in charge of the correctional facility

77 where the individual is housed shall, prior to the expiration of an individual's term of
78 incarceration, notify the individual in writing that their voting rights shall be restored upon
79 discharge. If an individual's right to vote was not suspended while incarcerated pursuant to
80 article III of the articles of amendment to the constitution, the officer in charge of the
81 correctional facility where

82 the individual is housed shall, prior to the expiration of an individual's term of
83 incarceration, notify the individual in writing that their voting rights shall be maintained upon
84 discharge and that, if the individual requested or submitted a mail-in ballot application or ballot,
85 the individual maintains the right to vote in-person so long as their mail-in ballot has not been
86 processed.

87 As part of the release process leading to the discharge of an individual whose right to
88 vote was suspended while incarcerated pursuant to article III of the articles of amendment to the
89 constitution, the correctional facility shall provide the individual with a voter registration form
90 and offer the individual assistance in filling out the form. The correctional facility shall provide
91 the individual with a postage guaranteed envelope or transmit the individual's completed voter
92 registration form to the city or town where the individual claims residence. If the individual
93 declines to register to vote, the facility shall provide the individual with a form indicating that the
94 individual was provided with the voter registration form and declined to register and offer the
95 individual assistance in filling out the form.

96 (h) (1) Notwithstanding section 91A of chapter 54 of the General Laws or any other
97 general or special law to the contrary, a specially qualified voter, as defined in section 1 of
98 chapter 50 of the General Laws, who is confined in a correctional facility, except if by reason of

99 a felony conviction, may cite the address of said correctional facility as their residence in an
100 application for an absentee or mail-in ballot.

101 (2) Election officers shall verify the eligibility status and residence for voting purposes of
102 any specially qualified voter described in paragraph (1) with the correctional facility from which
103 the voter applied before issuing a mail-in or absentee ballot.

104 (3) Election officers shall, 30 days before a municipal, primary or general election, post
105 on the city or town website and report to the state secretary measures to facilitate voting for
106 incarcerated eligible voters.

107 (4) Election officers shall make available by request as public record: (i) the number of
108 ballot applications received from eligible incarcerated voters; (ii) the number of rejected ballot
109 applications sent by incarcerated persons, with the reasons for rejection; and (ii) the number of
110 ballots received from eligible incarcerated voters.

111 (i)The state secretary shall deliver a secured drop box for early voting to each
112 correctional facility prior to the start of the early voting period for a primary or general election.
113 Notwithstanding section 25B of said chapter 54 or any other general or special law to the
114 contrary, an eligible incarcerated voter in receipt of an early voting ballot for a primary or
115 general election may complete and return the ballot by depositing it in the secured drop box prior
116 to the day of the primary or general election. To enhance security or voter access, ballot boxes
117 shall be portable and may be rotated to each unit to enable incarcerated persons to place ballots
118 in the boxes themselves. The state secretary shall deliver early voting ballots submitted by
119 secured drop box to the appropriate city or town clerk before the hour fixed for closing the polls
120 on the day of the primary or general election.

121 (j) The state secretary shall promulgate the regulations described in subsection (c) and
122 regulations necessary to implement this act not later than 90 days after the effective date of this
123 act.

124 SECTION 2. This act shall take effect upon its passage.

125 SECTION 3. Section 1 is hereby repealed.

126 SECTION 4. Section 3 shall take effect 5 years from the effective date of this act.