

**HOUSE . . . . . No. 669**

**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:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>

**HOUSE . . . . . No. 669**

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By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 669) of Russell E. Holmes and others increasing voter registration and participation of people incarcerated for felony convictions to help prevent recidivism. Election Laws.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

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.