

SENATE No. 2990

Senate, December 28, 2020 -- Substituted by amendment by the Senate (Senator Cyr) as a new draft for Senate, No. 2928.

The Commonwealth of Massachusetts

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

An Act providing for recall elections for the regional government of Barnstable county.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Article 7 of section 1 of chapter 163 of the acts of 1988 is hereby amended by adding the
2 following section:-

3 Section 7 – 7. Recall of Member of the Board of County Commissioners.

4 (a) Recall of a Member of Board of County Commissioners Elected by the Voters - Any
5 member of the board of county commissioners may be removed from office by the voters of
6 Barnstable county through the recall process described in this section.

7 (b) Time for Recall - A recall may not commence under this section until a member of
8 the board of county commissioners has served at least 1 year of the term of office. A petition for
9 a recall ballot question of any member of the board of county commissioners pursuant to this
10 section shall be filed with the county clerk not later than June 30 in the year of the next state
11 election after the commencement of the term of any member of the board of county
12 commissioners elected by the voters.

13 (c) Grounds for Recall - Grounds for recall for actions during the term of office shall be
14 malfeasance, misconduct, neglect of duty or inability to perform official duties.

15 (d) Citizens Request for a Recall - A citizen's request for a recall shall be filed with the
16 county clerk by filing an affidavit containing the name of the elected official whose recall is
17 sought and a statement of the grounds for recall. The form and requirements of the affidavit shall
18 be approved by the assembly of delegates.

19 An affidavit seeking the recall of a member of the board of county commissioners shall
20 include the signatures of not less than 120 voters with not less than 20 signatures each from 5
21 different Barnstable county municipalities.

22 When the citizens request for a recall is filed, the signatures shall be certified as the
23 names of voters in said municipality by the registrars of voters of the municipalities in which
24 they are collected. The county clerk shall determine if the citizen's request for a recall meets the
25 requirements of this section.

26 (e) Petition for a Recall Ballot Question - Within 5 business days of receipt of a citizens
27 request for a recall, the county clerk shall deliver blank petition for a recall ballot question forms
28 to the first 10 persons certified by the registrars of voters named on the citizens request for a
29 recall. The county clerk shall keep these forms available.

30 The blank petition for a recall ballot question may be completed by printing or
31 typewriting and shall:

32 (i) be addressed to the assembly of delegates;

33 (ii) contain the names of the 10 persons to whom they are issued and the grounds for
34 recall as stated in the affidavit;

35 (iii) demand the recall of an elected official; and

36 (iv) be dated and signed by the county clerk.

37 The petition for a recall ballot question form shall be returned to the county clerk within
38 45 days following the date they are issued.

39 A petition for a recall ballot question form seeking to recall a member of the board of
40 county commissioners shall be signed by not less than 3 per cent of the total number of persons
41 registered to vote in Barnstable county as of the date of the most recent state election.

42 (f) Submission of Petitions for a Recall Ballot Question to Registrars and Notification to
43 County Clerk - The signatories to the affidavit shall, within 5 business days following the filing
44 of the petition for a recall ballot question, submit the petitions to the board of registrars of voters
45 in the municipality from which the signatures were collected and the board of registrars shall
46 certify thereon the number of signatures that are the names of voters. Within 5 days of
47 certification by the board of registrars, the petitions shall be filed with the county clerk.

48 (g) Notification to Municipal Clerks and Official Sought to be Recalled - After the county
49 clerk determines that sufficient signatures have been certified to authorize a recall election, the
50 county clerk shall provide a written statement to that effect to the clerk of the municipalities that
51 comprise Barnstable county. The county clerk shall simultaneously cause to be served upon the
52 person sought to be recalled a certified copy of the petition for a recall ballot question within 10
53 days after certification of the signatures.

54 (h) Petition for a Recall Ballot Question and Statement - The person sought to be recalled
55 shall have 10 days from receipt of notification to file with the county clerk a statement of not
56 more than 300 words. After receipt of proof of service upon the person sought to be recalled, the
57 county clerk shall prepare a form titled “Petition for a Recall Ballot Question and Statement”,
58 which shall include the petition and a statement from the person sought to be recalled, but only if
59 a statement is provided within the required time period, and shall cause the petition and any
60 statement to be published on the Barnstable county website.

61 (i) Resignation of Official Sought to be Recalled - Following the determination by the
62 county clerk that sufficient signatures have been certified by the board of registrars of the
63 municipalities of Barnstable county for the recall of a member of the board of county
64 commissioners, the person sought to be recalled may provide a written resignation to the county
65 clerk within 15 days of receipt of a certified copy of the petition as provided in this section. A
66 resignation within the designated period shall be given immediate effect and there shall be no
67 further action taken under this section.

68 (j) Request to State Secretary to Place Recall Question on Ballot - If a written resignation
69 by the person sought to be recalled is not received as provided in subsection (i), the county clerk
70 shall notify the clerks of the municipalities where the recall is proposed to request the state
71 secretary to place the recall question on the ballot on the next state election.

72 (k) Ballot Question - The ballots for a recall election shall include the following question:

73 Shall (name of person) be removed from the office of board of county commissioners by
74 recall?

75 (l) Authorization to County Clerk - The county clerk shall be empowered and authorized
76 to take any action necessary to comply with this section with the clerks of the municipalities that
77 comprise Barnstable county and the state secretary.

78 (m) Appointment of Successor to Official Removed from Office - If a member of the
79 board of county commissioners is removed from office in accordance with this section, a
80 successor shall be appointed in accordance with section 3-9.”