

## Acts (2020)

### Chapter 115

#### AN ACT RELATIVE TO VOTING OPTIONS IN RESPONSE TO COVID-19.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for increased voting options in response to COVID-19, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

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

SECTION 1. Subsection (b) of section 25B of chapter 54 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- No application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before 5 P.M. on the fourth business day preceding the election.

SECTION 2. Said section 25B of said chapter 54, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The voting period for in person early voting shall run from the eleventh business day preceding the general election until the close of business on the business day preceding the business day before the election; provided, however, that if the eleventh business day before the election falls on a legal holiday the early voting period shall begin on the first business day prior to the legal holiday. The voting period for early voting by mail shall begin as soon as all necessary early voting materials have been received by the local election official pursuant to subsection (h).

SECTION 3. Section 89 of said chapter 54, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any form of written communication evidencing a desire to have an absent voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. No application for an absent voting ballot to be sent by mail shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters on or before the fourth business day preceding the election for which the ballot is being requested. No application for an absent voting ballot to be voted in person shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters on or before noon on the day preceding the election for which such absent voting ballot is requested; provided, however, that if the day preceding such election is a Sunday or legal holiday, then it shall be received by such clerk or registrars before 5 P.M. on the last previous day on which such office is open. An application by a voter

admitted to a health care facility after noon of the seventh day before the relevant election, as provided in subsection (c) of section 91B, may be received up until the time the polls close.

SECTION 4. Section 91B of said chapter 54, as so appearing, is hereby amended by striking out, in line 21, the words “after noon of the fifth” and inserting in place thereof the following words:- on or after the seventh.

SECTION 5. Section 92 of said chapter 54, as so appearing, is hereby amended by striking out, in line 11, the words “eighty-seven, or” and inserting in place thereof the following words:- 87; via a secured municipal drop box, where provided; or.

SECTION 6. (a) As used in sections 6 to 14, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Application”, an application to vote early by mail.

“Central registry”, the central registry of voters established pursuant to section 47C of chapter 51 of the General Laws.

“General election” or “election”, the general election scheduled for November 3, 2020.

“Primary election” or “primary”, the primary election scheduled for September 1, 2020.

“Qualified voter” or “voter”, a voter qualified pursuant to section 1 of chapter 51 of the General Laws.

“State secretary,” the secretary of the commonwealth.

(b) Notwithstanding section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, there shall be early voting by mail for the primary election and general election.

(c) The election officers and registrars of every city or town shall allow any qualified voter to cast an early ballot by mail for the primary election and general election and any city or town election held at the same time.

(d)(1) The state secretary shall, not later than July 15, 2020, mail to all registered voters who registered to vote before July 1 at their residential addresses or mailing addresses if different from their residential addresses listed in the central registry an application for said voter to be permitted to vote early by mail for the primary election; provided, however, that the state secretary shall not send an application to any voter whose previous application for an absent or early ballot for the primary election or for all elections in calendar year 2020 has been accepted.

(2) The state secretary shall, not later than September 14, 2020, mail to all registered voters who registered to vote before September 1 at their residential addresses or mailing addresses if different from their residential addresses listed in the central registry an application for said voter to be permitted to vote early by mail in the general election; provided, however, that the state secretary shall not be required to send an application to any voter whose previous application for an absent or early ballot for the general election or for all elections in calendar year 2020 has been accepted.

(3) The election officers and registrars of every city or town shall include an application for a voter to be permitted to vote early by mail with the acknowledgement notice sent to any person registering to vote or changing their voter registration address: (i) on or after July 1, 2020 and on or before August 22, 2020 for the primary election; and (ii) on or after September 1, 2020 and on or before October 24, 2020 for the general election.

(4) The applications required pursuant to this subsection shall be in a form prescribed by the state secretary in accordance with state and federal law; provided, however, that said applications shall: (i) include clear instructions for completing and returning the application; (ii) allow a voter to designate the mailing address to which the ballot shall be sent; and (iii) be pre-addressed to the local election official with postage guaranteed.

(5)(i) Each application mailed pursuant to this subsection shall be provided in any language required by the bilingual election requirements of the federal Voting Rights Act, 52 U.S.C. § 10503.

(ii) Each application mailed to a voter in the city of Boston pursuant to this subsection shall include an option, which shall appear prominently on the application, to request a ballot printed in any language available at the voter's polling location pursuant to chapter 166 of the acts of 2014.

(6) The applications required pursuant to this subsection shall be made available on the websites of the state secretary and the election officers and registrars of every city or town.

(e)(1) A voter wishing to vote early by mail in the primary election shall complete the application to vote early by mail and shall return said application to the appropriate city or town clerk. Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting for the primary election shall be given the same effect as an application made in the form prescribed by the state secretary. Applications to vote early by mail for the primary election shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature.

(2) No application to vote early by mail in the primary election shall be deemed to be seasonably filed unless it is received in the office of the local election official before 5 P.M. on Wednesday, August 26, 2020.

(f)(1) A voter wishing to vote early by mail in the general election shall complete the application and shall return said application to the appropriate city or town clerk. Applications to vote early by mail for the general election shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature.

(2) No application to vote early by mail in the general election shall be deemed to be seasonably filed unless it is received in the office of the local election official before 5 P.M. on Wednesday, October 28, 2020.

(g)(1) Early voting ballots authorized pursuant to this section shall be mailed by the city or town clerk to voters as soon as such materials are available; provided, however, that said mailing shall include: (i) instructions for early voting; (ii) instructions for completing the ballot; (iii) an inner envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter; and (iv) an outer envelope that is pre-addressed to the local election official with postage guaranteed; provided, however, that a voter who has seasonably filed an application may receive an early voting ballot in person at the office of the city or town clerk. The state secretary shall seek to have included on the outer envelope with postage guaranteed required by this section a system which generates a postmark for determining the date upon which the envelope was mailed and, if such a postmark system cannot be implemented, the state secretary shall inform the clerks of the senate and house of representatives of efforts undertaken and impediments to developing such a system.

(2) Each early voting ballot authorized pursuant to this section shall be provided to the voter in the language required pursuant to paragraph (5) of subsection (d).

(h)(1) A voter in receipt of an early voting ballot for the primary election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

(2) A voter in receipt of an early voting ballot for the general election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

(3) All early voting ballots submitted by mail, delivered in person to the office of the city or town clerk or returned to a secured municipal drop box as provided by this section shall be received by the city or town clerk before the hour fixed for closing the polls on the day of the primary election or general election; provided, however, that an early voting ballot cast for the general election that is received not later than 5 P.M. on November 6, 2020 and mailed on or before November 3, 2020 shall be processed in accordance with the second paragraph of section 95 of chapter 54 of the General Laws. A postmark, if legible, shall be evidence of the time of mailing.

(i) A voter wishing to apply to vote early by mail in the primary or general election and who needs accommodation by reason of disability may request such accommodation from the state secretary. Upon receiving information from the voter pursuant to the application in this section either by phone or electronically, the state secretary shall grant accommodations to the voter. Accommodations shall include, but not be limited to: (i) clear and electronic accessible instructions for completion, printing and returning of the ballot; (ii) an authorized accessible blank electronic ballot that can be filled out electronically, printed and signed; provided, however, that the accessible electronic ballot marking system the voter utilizes to access their blank electronic ballot shall not collect or store any personally identifying information obtained in the process of filling out the



ballot; (iii) an envelope to return the ballot to the voter's town or city clerk; and (iv) hole punched markers in place of a wet signature required for certification. The electronic instructions and accommodations in this section shall comply with requirements contained in Title II of the federal Americans with Disabilities Act and shall conform to the Web Content Accessibility Guidelines (WCAG) 2.1 AA and the National Institute of Standards and Technology report titled "Principles and guidelines for remote ballot marking systems." Upon printing the ballot, the voter shall place the ballot in the envelope provided by the state secretary. A voter with accommodations in receipt of an early voting ballot for the primary or general election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

SECTION 7. (a) Notwithstanding section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, there shall be early voting in person for the primary election and the general election.

(b)(1) The election officers and registrars of every city or town shall allow any qualified voter to cast an early ballot in person for the primary election during the early voting period, which shall begin on Saturday, August 22, 2020 and end on Friday, August 28, 2020. Early voting in person shall also apply to any city or town election held at the same time.

(2) The election officers and registrars of every city or town shall allow any qualified voter to cast a ballot in person for the general election during the early voting period, which shall begin on Saturday, October 17, 2020 and end on Friday, October 30, 2020. Early voting in person shall also apply to any city or town election held at the same time.

(3) Any qualified voter wishing to vote early in person in the primary or general election may do so at the time, manner and location prescribed in this section.

(c)(1) Early voting in person for the primary election shall be conducted on Saturday, August 22, 2020 and Sunday, August 23, 2020, as follows: (i) for municipalities with fewer than 5,000 registered voters, for a period of a minimum of 2 hours each day; (ii) for municipalities with 5,000 or more registered voters but fewer than 20,000 registered voters, for a period of a minimum of 4 hours each day; (iii) for municipalities with 20,000 or more registered voters but fewer than 40,000 registered voters, for a period of a minimum of 5 hours each day; (iv) for municipalities with 40,000 or more registered voters but fewer than 75,000 registered voters, for a period of a minimum of 6 hours each day; and (v) for municipalities with 75,000 or more registered voters, for a period of a minimum of 8 hours each day. For each other day during the early voting period, early voting shall be conducted during the usual business hours of each city or town clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this paragraph.

(2) Early voting for the general election shall be conducted on Saturday, October 17, 2020, Sunday, October 18, 2020, Saturday, October 24, 2020 and Sunday, October 25, 2020 as follows: (i) for municipalities with fewer than 5,000 registered voters, for a period of a minimum of 2 hours each day; (ii) for municipalities with 5,000 or more registered voters but fewer than 20,000 registered voters, for a period of a minimum of 4 hours each day; (iii) for municipalities with 20,000 or more registered voters but fewer than 40,000 registered voters, for a period of a minimum of 5 hours each day; (iv) for municipalities with 40,000 or more registered voters but fewer than 75,000 registered voters, for a period of a minimum of 6 hours each day; and (v) for municipalities with 75,000 or more registered voters, for a period of a minimum of 8 hours each day. For each other day during the early voting period, early voting shall be conducted during the usual business hours of each city or town clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this paragraph.

(d)(1) Each city and town shall establish an early voting site for the primary election and an early voting site for the general election that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting in either the primary election or general election, the registrars of each city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within that city or town as an early voting site. A city or town may also provide for additional early voting sites

for the primary election or general election at the discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities in accordance with federal law.

(2) The designation of early voting sites for the primary election shall be made not later than August 7, 2020. Not later than August 14, 2020, and at least once during the voting period, the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted: (i) in the office of the city or town clerk or on the principal official bulletin board of each city or town; (ii) on any other public building considered necessary; (iii) on the city or town's website, if any; and (iv) on the website of the state secretary.

(3) The designation of early voting sites for the general election shall be made not later than October 2, 2020. Not later than October 9, 2020, and at least once during the voting period, the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted: (i) in the office of the city or town clerk or on the principal official bulletin board of each city or town; (ii) on any other public building considered necessary; (iii) on the city or town's website, if any; and (iv) on the website of the state secretary.

(e) A qualified voter voting early in person shall be provided with a ballot and an envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter. A qualified voter voting early in person shall complete an affidavit under

the regulations promulgated pursuant to this act, which shall include a notice of penalties under section 26 of chapter 56 of the General Laws.

(f) Prior to the beginning of early voting, the registrars for each city or town shall prepare a list for the early voting sites, containing the names and residences of all persons qualified to vote at each voting site, as the names and residences appear upon the annual register, and shall reasonably transmit the applicable list to the election officers at each early voting site designated by the registrars.

(g) The registrar or presiding official at the early voting site shall cause to be placed on the voting lists opposite the name of a qualified voter who participates in early voting the letters “EV” designating an early voter.

(h) The registrars shall prepare lists of all voters casting ballots pursuant to this section or section 6 during the early voting period and update the voter list in a manner prescribed by the state secretary.

(i) A city or town may opt to detail a sufficient number of police officers or constables for each early voting site for the primary election at the expense of the city or town to preserve order, protect the election officers and supervisors from any interference with their duties and aid in enforcing the laws relating to elections.

(j)(1) The absentee or early ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote by reason by death after casting the ballot. For the purposes of this section, the term “cast” shall mean that the voter has: (i) deposited the absentee or early ballot in the mail for ballots mailed; (ii) returned the absentee or early

ballot to the appropriate election official either by hand or by depositing in the municipal drop box, where available; or (iii) completed voting in person at the clerk's office or an early voting location.

(2) Section 100 of chapter 54 of the General Laws shall not apply to the primary election or general election or any other municipal election held at the same time.

(k) Notwithstanding any general or special law to the contrary, any absent ballot cast pursuant to section 86 of chapter 54 of the General Laws or any early voting ballot cast pursuant to this section or section 6 may be deposited into a tabulator or a ballot box in a municipality or precinct that uses paper ballots, in advance of the date of the primary or the general election. All ballots received pursuant to this section or section 6 may be opened in advance of the date of the primary or the general election, in accordance with regulations promulgated by the state secretary; provided, however, that such ballots shall be kept secured, locked and unexamined, and that no results shall be determined or announced until after the time polls close on the date of the primary or the general election. Disclosing any such result before such time shall be punished as a violation of section 14 of chapter 56 of the General Laws. Not later than August 1, 2020, the state secretary shall promulgate emergency regulations regarding the advance depositing of ballots.

SECTION 8. (a) Not later than August 3, 2020, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (i) official absentee and early voting ballots for the primary election, similar to the official

ballot to be used at the primary election; provided, however, that a sufficient quantity of such ballots are printed in the languages necessary to accommodate the selection of a bilingual ballot by voters pursuant to paragraph 5 of subsection (d) of section 6; (ii) envelopes of sufficient size to contain the ballots specified in clause (i) bearing on their reverse the voter's affidavit in compliance with the requirements of subsection (j) of section 25B of chapter 54 of the General Laws; (iii) return envelopes for any ballot requested for voting by mail pre-addressed to the local election official with postage guaranteed; and (iv) instructions for voting by mail to be sent to each voter who requests to cast a ballot by mail.

(b) Not later than October 9, 2020, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (i) official absentee and early voting ballots, for the general election, similar to the official ballot to be used at the general election; provided, however, that a sufficient quantity of such ballots are printed in the languages necessary to accommodate the selection of a bilingual ballot by voters pursuant to paragraph 5 of subsection (d) of section 6; (ii) envelopes of sufficient size to contain the ballots specified in clause (i) bearing on their reverse the voter's affidavit in compliance with the requirements of subsection (j) of said section 25B of said chapter 54; (iii) return envelopes for any ballot requested for voting by mail pre-addressed to the local election official with postage guaranteed; and (iv) instructions for voting by mail to be sent to each voter who requests to cast a ballot by mail.

SECTION 9. (a) Sections 37 and 38 of chapter 53 of the General Laws shall apply to unenrolled voters and voters enrolled in political designations voting early in the primary election. The registrar or

presiding official at the early voting site shall cause the name of the party of the ballot being voted to be recorded on the voting list. Once the party selection has been recorded on the voting list, a voter cannot request or vote on the ballot of another party.

(b) The counting of early voting ballots including, but not limited to, informing election officers and any challengers present under section 85A of chapter 54 of the General Laws shall be set by 950 C.M.R. § 47.00, so far as applicable. All envelopes referred to in this section shall be retained with the ballots cast at the primary election and shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(c) The provisions of 950 C.M.R. § 47.00 shall apply to early voting at the primary election to the extent feasible; provided, however, that the state secretary shall promulgate rules to accommodate the dates set forth herein.

SECTION 10. Notwithstanding section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, the election officers and registrars of every city or town shall allow any qualified voter to vote early by mail for any city or town election held on or before December 31, 2020.

SECTION 11. Notwithstanding section 24 of chapter 54 of the General Laws or any other general or special law to the contrary, the select board, board of selectmen, town council or city council may, by recorded and public vote, change any polling place to be used at the primary election or the general election at least 20 days prior to the date of the primary election or general election if it is determined that the public convenience or public health would be better served. If the



select board, board of selectmen or town council determines that the public convenience or public health would be better served, they may house all polling places in a single building within the municipality, if such building is suitably equipped; provided, however, that alcoholic beverages shall not be served or consumed in that portion of a building used as a polling place, during voting hours or while ballots are being counted therein. In cities, the city council may designate polling places in non-adjacent precincts if they determine the public convenience or public health would be better served. In making a decision to change a polling place, the select board, board of selectmen, town council or city council shall evaluate and report on whether such change would have a disparate adverse impact on access to the polls on the basis of race, national origin, disability, income or age, and not later than 3 days prior to changing a polling place, shall make publicly available on its website and at the office of the town or city clerk a report on its evaluation. When the polling places have been designated pursuant to this section, the board of registrars shall post on the municipal website and at other such places as it may determine, a description of the polling places and shall notify voters by using an electronic means, to the extent available, such as via email or reverse 911 call.

SECTION 12. Notwithstanding section 29 of chapter 53 of the General Laws and sections 11, 11B, 12 and 13 of chapter 54 of the General Laws or any other general or special law to the contrary, for the primary election and general election, if the city or town clerk determines in writing that there is a deficiency in the number of required election officers, then the appointing authority may appoint election officers without regard to political party membership, voter

status, residence in the city or town or inclusion on a list filed by a political party committee pursuant to said sections 11B and 12 of said chapter 54. If the position of the warden, clerk or inspector, or the deputy of any such officer, if any, is vacant within the 3 weeks preceding the primary or general election, the city or town clerk may fill the vacancy by appointing a competent person willing to serve, without regard to political party membership, voter status, residence in the city or town or inclusion on a list filed by a political party committee pursuant to said sections 11B and 12 of said chapter 54.

SECTION 13. Notwithstanding sections 67 and 83 of chapter 54 of the General Laws or any other general or special law to the contrary, for the primary election and general election, the city or town clerk may eliminate the requirement that a voter provide their name or residence to an election officer at the ballot box and that the election officer mark the name off a voting list before the voter may deposit the ballot in the ballot box.

SECTION 14. Notwithstanding any general or special law to the contrary, the state secretary shall implement a system to allow a qualified voter to request an early or absentee ballot on the state secretary's website, to be mailed to the qualified voter's home address or a different mailing address as designated by the voter. The system shall not require the voter's signature. The system shall apply to the November 3, 2020 general election, and, if feasible, to the September 1, 2020 state primaries, and shall in any event be operational not later than October 1, 2020.

SECTION 15. For an election held on or before December 31, 2020, any person taking precaution related to COVID-19 in response to a declared state of emergency or from guidance from a medical professional, local or state health official or any civil authority shall be deemed to be unable by reason of physical disability to cast their vote in person at a polling location.

SECTION 16. Notwithstanding sections 25B and 89 of chapter 54 of the General Laws or any other general or special law to the contrary, applications for early and absentee ballots for all elections held on or before December 31, 2020 shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature.

SECTION 17. Notwithstanding any other general or special law to the contrary, subsection (c) of section 91B of chapter 54 of the General Laws shall apply to voters who have been instructed by a medical professional or a local or state health official to self-quarantine in their home beginning after noon on the seventh day before the any election held on or before December 31, 2020.

SECTION 18. Notwithstanding sections 26 and 28 of chapter 51 of the General Laws or any other general or special law to the contrary, the last day to register to vote for any election taking place on or before December 31, 2020 shall be 10 days before the date of such election; provided, however, that the board of registrars shall hold a registration session on that date not less than from 2:00 P.M. to

4:00 P.M. and from 7:00 P.M. to 8:00 P.M. The voting list to be used for any such election shall include all eligible voters registered as of that date.

SECTION 19. The state secretary shall promulgate emergency regulations for the administration and enforcement of this act including, after consulting with the commissioner of the department of public health, regulations requiring public health safeguards at early voting sites and polling places, including required distancing of voters and election officers, frequent use of sanitizers, personal protective equipment and use of marking pens.

SECTION 20. Not later than July 15, 2020, the state secretary shall: (i) promulgate regulations for electronic poll books required by section 33I of chapter 54 of the General Laws; and (ii) certify 1 or more types of electronic poll books in time to be used in the 2020 state primary and the general elections, and all future elections, under said section 33I of said chapter 54.

SECTION 21. The state secretary shall report to the house and senate committees on ways and means and the joint committee on election laws not later than July 1, 2021 on the costs to implement this act, including, but not limited to: (i) the number of ballot applications with postage guaranteed mailed to voters; (ii) the number of ballot applications with postage guaranteed returned requesting a ballot; (iii) the total number of ballots cast by mail; and (iv) total cost and amounts paid for using federal funds.

SECTION 22. The state secretary shall report to the house and senate committees on ways and means and the joint committee on election laws not later than 12 months after the enactment of this act

on how the state secretary can make voting more accessible for voters with disabilities, specifically through online voting options.

SECTION 23. Section 109A of chapter 54 of the General Laws shall apply to ballots cast in the November 3, 2020 general election.

SECTION 24. The state secretary shall conduct a public awareness campaign to inform voters throughout the commonwealth of the provisions of this act, including, but not limited to, measures to promote public awareness of expanded early voting options in the 2020 primary and general elections and the requirements and procedures for early voting by mail, including, but not limited to, information related to the ability of a voter who requests but does not return an early voting by mail ballot to vote in person on election day.

*Approved, July 6, 2020.*