

Election Statute Navigator: Massachusetts

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of October 19, 2020. Please contact elect@wm.edu with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link: <https://ebenchmark.org/massachusetts/covid/#tracker>.

Voter Registration

- Voters (other than above) register prior to Election Day
 - **51 § 1F:** Not later than eight o'clock post meridian of the twentieth day preceding such election
 - **51 § 26:** Mailed affidavits of registration postmarked before midnight on the final day to register for an election shall be effective for such election, as provided in section forty-two G. If a postmark is unclear or illegible, a mailed affidavit shall be accepted until the fifth day after the final day to register.
- Online registration available
 - **51 § 33A:** [See official Massachusetts Online Voter Registration website](#)
- Registration via mail available **51 § 4A**
- In-Person registration available
 - **51 § 42D:** Registration sessions in any regional high school, college or university in any city or town in the commonwealth where there are persons entitled to be registered in their city or town who are regularly gathered there by reason of education or employment.
- Automatic Voter Registration
 - See [H.4834](#)
 - **51 § 42G:** Automatic voter registration agencies"
 - **51 § 65:** Administration of automatic voter registration
- Preregistration allowed
 - **51 § 42:** Registration as a voter shall be by affidavit of registration made in conformity with the requirements of this chapter by any person at least 16 years of age or older.
 - **51 § 47A:** If, after examination of an affidavit of registration, it appears to the registrars that the person has all the qualifications to be registered as a voter except that of age and the person has obtained the age of 16, then they shall enter



the person's name in the current annual register of voters with the designation “pre-registrant” or other term or code as specified by the state secretary.

- Residency requirement
 - **51 § 1:** Every citizen, who is a resident in the city or town where he claims the right to vote at the time he registers, may have his name entered on the list of voters in such city or town, and may vote therein in any such election, or except insofar as restricted in any town in which a representative town meeting form of government has been established, in any meeting held for the transaction of town affairs.
 - **51 § 3:** For all elections and primaries held prior to June first in any year, a person shall be registered and may vote in the ward or voting precinct where he resided on January first of the previous year; provided, however, that any registered voter of a city or town who moves to any other precinct in said city or town may register to vote at his new address by making written application to the city or town clerk no later than the close of registration.
- Prior conviction eligibility
 - **51 § 1:** Every citizen, not being a person under guardianship or incarcerated in a correctional facility due to a felony conviction, and not being temporarily or permanently disqualified by law because of corrupt practices in respect to elections...may have his name entered on the list of voters
- Voter list maintenance guidelines
 - **51 § 38:** Revisions and corrections of registers
 - **51 § 47C:** Central registry of voters
 - **51 § 55:** Preparation of voting lists; contents and arrangement; distribution; revisions
 - **51 § 60:** Voting lists for use at polls
- Other:
 - **51 § 26:** If any person applies for registration during a period prior to a regular or special preliminary, primary or election when registration to qualify as a voter in such preliminary, primary or election is prohibited by the provisions of this section, such person, if otherwise qualified, shall be registered and his name shall be placed on the voting lists as a registered voter for all later preliminaries, primaries or elections.
 - **51 § 26A(b):** Superintendents of schools shall ensure that each voter challenge program implemented in their districts provide opportunities for outreach and for all eligible students to register or pre-register to vote on any participating high school campus. An enrolled high school student may apply to serve as a voter outreach



coordinator or be selected to serve as a voter outreach coordinator by a peer nomination process.

- **51 § 42A:** Physically disabled applicants – deadlines and application
- **51 § 42E:** All public and independent colleges, universities, high schools and vocational schools shall make available affidavit of voter registration forms at all locations where students may register for classes.
- **51 § 50:** Supplementary registration for “Specially qualified voters” – during regular business hours of any day following the final day for registration
- **51 § 64:** Online portal for verification of registration or pre-registration status

State Absentee, Early, and Mail Voting

Massachusetts has allowed no-excuse voting by mail in 2020.

See [MA official vote by mail](#) website

- Early voting allowed
 - **54 § 25B(b):** Any qualified voter wanting to early vote by mail may file with his or her local election official an application for an early voting ballot.
 - **54 § 25B(c):** The voting period for 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
 - **54 § 25B(e):** All early voting ballots voted by mail shall be received by the city or town clerk before the hour fixed for closing the polls
 - **54 § 25B(q):** No early voting ballot cast under this section shall be counted if the officer charged with the duty of counting the ballot is cognizant of the fact that the voter has died prior to the opening of the polls on the day of the election.
- In-Person early voting
 - **54 § 25B(f):** Each city and town shall establish an early voting site 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, the registrars of each city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within each city or town as an early voting site. A city or town may also provide for additional early voting sites at the discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities.
 - **54 § 25B(g):** The designation of an early voting site shall be made not less than 14 days prior to the beginning of the voting period established in subsection (b).



Not less than 7 days prior to the beginning of the early 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.

- Listed excuses to vote absentee
 - **54 § 86:** Out of county, illness or disability, Student living outside of county, religious belief or practice
- Absentee ballot application is verified **54 § 91**
- Absentee ballot verification details **54 § 94**
- State allows voters to correct signature discrepancies
 - **54 § 94:** Prior to Election Day, the voter is notified and, if sufficient time allows, sent a new ballot if an affidavit signature is absent or the ballot is rejected for other reasons. Voter can then submit a new absentee ballot.
- Someone other than the voter can return an absentee or mail ballot on behalf of the voter
 - **54 § 92:** A family member may deliver an absentee ballot on behalf of a voter.
- Deadline by which election official must receive absentee/mailed ballots
 - **54 § 95:** Election day before polls close
- Absentee/Mail ballot processing and counting procedures **54 § 95**
- Spoiling/Replacement/Correction ballot restrictions
 - **54 § 81:** If a voter spoils a ballot, he may obtain two others, one at a time, upon returning each spoiled one, and all ballots so returned shall immediately be marked by an election officer "spoiled"
 - **54 § 89:** The provisions of section eighty-one relative to spoiled ballots shall apply to absent voting ballots
- Other:
 - **Ch. 51, § 1F:** Any form of written communication containing the name, age, citizenship, former residence and present residence of such person shall cause the registrars to make an investigation relative to the qualifications of such person to vote and, for the purpose of such investigation, the officer in charge of the police force of each city and town shall give the registrars such assistance as they may require. Upon determining that such person is qualified to vote under the provisions of this section, the registrars shall forward an absentee ballot to him and shall include his name on a list of persons qualified under this section which shall be sent to the city or town clerk.



- **54 § 100:** No ballot mailed or delivered under the provisions of sections eighty-six to one hundred and three, inclusive, shall be counted if the officers charged with the duty of counting the same are cognizant of the fact that the voter has died prior to the opening of the polls on the day of the election.

In-Person Voter ID

- No document required to vote
 - **54 § 76:** Each voter desiring to vote at a polling place shall give his name and, if requested, his residence to one of the officers at the entrance to the space within the guard rail, who shall thereupon distinctly announce the same. If such name is found on the voting list, the election officer shall check and repeat the name and shall admit the voter to the space enclosed by the guard rail
 - **54 § 76B:** Except as provided in subsection (b), a person desiring to vote, who fails to present suitable written identification when so requested by an election officer, shall be permitted to vote, but that person's right to vote may be challenged under section 85
- Exceptions to No Voter ID required
 - **54 § 76B(b)(1):** If the person registered to vote in the city or town by mail after January 1, 2003 and the person has not previously voted in an election for federal office in the commonwealth, they must show identification:
 - **54 § 76B(b)(2):** ID requirements
- Options for voters without ID
 - **54 § 76B(b)(2)(B):** Provisional ballot – see § 76C

Provisional Voting

- Provisional ballot availability **54 § 76C**
- Time allotted to determine the status of provisional ballot **54 § 76C**
 - Twelve days
- Provisional ballot rejection reasons **54 § 76C**
 - The city or town clerk determines that the individual is ineligible to vote in the precinct in the election under the law of the commonwealth
- Method for informing voters whether provisional vote was counted
 - Call 1-800-462-VOTE
 - [See Official Massachusetts Provisional Ballot website](#)



Polling Place

- Polling Place availability and requirements
 - **54 § 1:** Decennial division of cities into wards and precincts
 - **54 § 2:** Census; effect upon formation of congressional, representative, senatorial or councilor districts
 - **54 § 4: New divisions of cities into wards, when effective; congressional districts**
 - **54 § 5:** Publication and posting of maps or descriptions of divisions
 - **54 § 6:** Division of towns into voting precincts
 - **54 § 7A:** Dividing precincts to facilitate voting
 - **54 § 9:** Any town of fewer than 6,200 inhabitants may discontinue its voting precincts; and subsequent elections therein shall be held as if no such division had been made. Any such discontinuance shall be subject to the second paragraph of section nine A.
- Electioneering or campaigning must not be closer than **150** feet to the entrance of the polling place **54 § 65**
- Rules governing poll observers/challengers
 - **54 § 33H:** Each city or town chairman of a political party may appoint in writing a qualified computer expert to monitor the electronic counting of ballots at such tabulating center. He shall be assigned by the presiding officer to a position within the center which will enable him to observe all operations
 - **54 § 85A:** State committee of a political party may appoint a person to act as a challenger of voters in any polling place in the commonwealth at a state election and a city or town committee of such a party, in a city or town in which municipal officers are nominated by primaries or by caucuses of political parties, may appoint a person to act as such challenger at any polling place in such city or town at a municipal election.
 - **54 § 85A:** Challenger shall be assigned by the election officer presiding at the polling place to such position within the polling place as will enable him to see and hear each voter as he offers to vote. Nothing herein contained shall deprive any other person of the right to challenge a voter as provided by law.
- Police presence
 - **51 § 53:** The board of police or officer in charge of the police force of a city or town shall, when requested by the registrars, detail a sufficient number of police officers



to attend any meeting held by a registrar in the performance of his duties, and to preserve order and enforce his directions.

- **54 § 25B(p):** Section 72 shall not apply to this section; provided, however, that a city or town may opt to detail a sufficient number of police officers or constables for each early voting site 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.
- **54 § 65:** No rule, regulation or provision of law shall prohibit a person who is a member of a police or fire department of the commonwealth, or any political subdivision thereof, who is not on active duty, from distributing such material one hundred and fifty feet distant from a building entrance door to a polling place in an election where there appears on the ballot a referendum pertaining to, or affecting, the conditions of employment, including hours of labor and compensation, in the department of which said person is a member subject to the provisions of this section.
- **54 § 70:** When the polls are closed, the presiding officer shall cause a police officer or other qualified person to be stationed at the end of the line of persons waiting to vote to see that no other persons vote than those who were in the polling place or in line at the door at the time fixed for closing the polls.
- **54 § 71:** The presiding officer at each polling place shall enforce the performance by election officers of their duties and he may require any police officer, constable or other person to communicate his orders and directions and assist in their enforcement.
- **54 § 72:** The board or officer in charge of the police force of each city and town shall detail a sufficient number of police officers or constables for each building that contains the polling place for one or more precincts at every election therein to preserve order and to protect the election officers and supervisors from any interference with their duties and to aid in enforcing the laws relating to elections; provided, however, that this section may apply to section 25B at the discretion of the election officers and registrars for a city or town.
- **54 § 74:** If a person at an election refuses to obey the lawful commands of the presiding officer or, by disorderly conduct interrupts or disturbs the proceedings of an election officer, the presiding officer may require any police officer, constable or other person to take him into custody and detain him until after the election; but the presiding officer may at any time order his release. Such order of detention shall not be so enforced as to prevent such person, if a voter at that polling place, from voting.



- Other:
 - **54 § 33C:** No voter after registering his vote and emerging from the machine booth or the marking compartment shall be permitted to reenter it

State Emergency Rules and How Elections are Affected

- Other:
 - **53 § 14:** Death, withdrawal or ineligibility of nominated candidate

Counting Rules

- Voting system requirements
 - **54 § 33:** Requirements and use of voting machines, electronic voting systems, and ballots
- Counting procedures
 - **53 § 39:** In counting votes when the ballots are removed from the ballot box, they shall first be sorted into piles, one for each party, and each pile shall be counted and sealed separately. Votes shall be counted only for nominations of the party on whose ballot they appear.
 - **53 § 51:** No ballots cast at a state primary in cities or towns shall be counted until the close of the polls.
 - **53 § 70E:** Election officers in the presidential primaries, in counting and tabulating the votes showing the voters' preference for president, shall disregard the omission or inaccuracy of initials, the omission, inaccuracy or misspelling of Christian names, and the misspelling of surnames, if the intent of the voter to express a preference for any particular individual can be ascertained. Such statements of voters of presidential preference shall be counted, tabulated and entered in the records of election officers of votes cast.
 - **53 § 110:** Immediately after the polls have been declared closed, but not before, the ballots shall be counted in full view of the voters.
 - **54 § 33H:** Any ballot or card which is rejected by the computer or counting unit, or which is mutilated so that it cannot be inserted in the computer or counting unit, shall be counted by hand by two inspectors of different political parties, and the result of the count of all such ballots shall be entered separately on the precinct record sheet, and added to the machine tabulated totals and the absentee ballot and other totals thereon.



- **54 § 100:** No ballot mailed or delivered under the provisions of sections eighty-six to one hundred and three, inclusive, shall be counted if the officers charged with the duty of counting the same are cognizant of the fact that the voter has died prior to the opening of the polls on the day of the election.
- **54 § 105:** Procedures at any precinct where an electronic voting system is in use. In any other precinct, if the state ballot box is used, the clerk shall, as soon as the polls are closed, record the total number of ballots received at the polling place, the ballot box register, and the total number of spoiled ballots

Contest/Protest, Recount Rules

- Voter protesting **54 § 135**
- Candidate protesting **54 § 135**
- Challenging a voter
 - **53 § 76:** Such voter may be challenged like any other voter. Any person whose right to vote is challenged for any cause recognized by law shall not be permitted to vote until he has taken the foregoing oath; and the clerk or secretary of the caucus shall make a record of the administration of said oath to every person taking the same, which record shall state whether or not said person voted
 - **53 § 109:** If the right of a person offering to vote is challenged for any legal cause, and he takes the oath required by section seventy-six, the presiding officer shall require him, or someone in his behalf, to write his name and residence on the outside of the ballot offered, and before it is received the presiding officer shall add thereto the name of the person challenging and the cause alleged for the challenge. No officer or other person shall give any information in regard to a ballot cast by a challenged voter unless required by law so to do.
 - **54 § 23:** The supervisors shall attend the polling places for which they are appointed, may challenge persons offering to vote
 - **54 § 76B:** Right to challenge vote
 - **54 § 85:** Procedure to challenge person's right to vote
 - **54 § 91A:** Specially qualified voters may be challenged
 - **54 § 96:** All ballots transmitted under any provision of sections eighty-six to one hundred and three, inclusive, shall be subject to challenge when and as cast for non-compliance with any provision of sections eighty-six to one hundred and three, inclusive, or for any other reason allowed by law, including that the voter was not unable by reason of physical disability to cast his vote in person at the polling place on the day of the election, and if challenged shall be disposed of in



accordance with section eighty-five, except that so much of said section as involves the administering of an oath shall not apply thereto, and the writing of the name and address of the voter on the ballot shall be performed by the officer charged with depositing the ballot in the ballot box.

- Contest/Protest recount
 - **54 § 135:** Candidates may file a recount petition with local registrars no later than 10 days following the election where the margin of victory is no more than 1/2 of 1 percent of the votes cast for that office. The petitions must be submitted to the Secretary of State no later than the 15th day following the election. For district-wide recounts the petition must be signed by 1/4 the number of voters required to sign state primary nomination papers for the office. For statewide recounts the petition must be signed by at least 1,000 registered voters. The Secretary of State must hold recount petitions until the official tabulation is made by the Governor and Executive Council. Local registrars must hold the recount no later than 10 days after the deadline for filing the recount petition.
- Other:
 - **55B § 5:** Objections; federal, state, and county offices

