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COMMONWEALTH OF MASSACHUSETTS  
**Supreme Judicial Court**

SUFFOLK, SS.

No. 12931

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ROBERT GOLDSTEIN, KEVIN O'CONNOR, AND MELISSA BOWER SMITH,  
*Petitioners,*

v.

WILLIAM FRANCIS GALVIN, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE  
COMMONWEALTH OF MASSACHUSETTS,  
*Respondent.*

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ON RESERVATION AND REPORT FROM  
THE SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY

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**BRIEF OF THE SECRETARY OF THE COMMONWEALTH**

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## INTRODUCTION

The requirement that candidates seeking election for public office demonstrate some popular support by submitting signatures of registered voters in order to appear on the ballot is constitutionally sound and serves an important interest. In this extraordinary time, however, where we face a global pandemic caused by a rapidly spreading and highly contagious disease, and public health officials caution social distancing, the Secretary recognizes that traditional methods of collecting signatures must be modified. While the statutory provisions that govern the process of seeking and obtaining access to the ballot may require alteration under the current public-health emergency, the purposes of those provisions remain valid and should inform any remedy ordered.

In this brief, the Secretary offers the Court an overview of the nomination signatures requirement by setting forth the statutory provisions applicable to the collection, submission, and certification of signatures on candidates' nomination papers, as well as the close sequence of steps that leads to the preparation and distribution of ballots for the

September 1, 2020 state primary election. See *infra* Factual Background Sections I and II. The Secretary then describes the status of the Petitioners' efforts to submit sufficient signatures to qualify them to appear on the ballot for the respective offices they seek, as well as the efforts that other candidates have made to obtain signatures since the COVID-19 pandemic began, under the constraints of social distancing. See *infra* Factual Background Section III. The Secretary then discusses the constitutional and other legal principles that support the requirement to gather nomination signatures. See Discussion Section I. Against that legal backdrop, and applying those constitutional and statutory principles, the Secretary discusses the relative merits and complications of the remedies requested by the Petitioners, including the possibility of the Court authorizing electronic signatures, and offers his perspective on workable alternatives. See *infra* Discussion Sections II and III.

## **FACTUAL BACKGROUND**

### **I. Nomination Papers for the State Primary to be Held on September 1, 2020**

Petitioners Robert Goldstein, Kevin O'Connor, and Melissa Bower Smith are candidates seeking to be placed on the ballot for the September 1 primary. *Petition*, pp. 6-7. Petitioner Goldstein is a candidate for the Democratic Party's nomination for United States Congress from the Eighth Congressional District. *Id.* at p. 7. Petitioner O'Connor is a candidate for the Republican Party's nomination for United States Senate. *Id.* at p. 8. Petitioner Bower Smith is a candidate for the Democratic Party's nomination for State Representative from the Fourth Norfolk District. *Id.* at p.9.

General Laws Chapter 53 sets forth the requirements for nomination papers for offices to be decided at the state primary, including all three offices - United States Senator, United States Representative, and State Representative - sought by the petitioners. For each office, the statute sets forth the minimum number of voters whose signatures must appear on a candidate's nomination papers in order for the candidate's name to appear on the state

primary ballot. G.L. c. 53, § 44. For the three offices relevant here, the statute requires the following numbers of signatures: for United States Senator, 10,000; for United States Representative, 2,000; and for State Representative, 150. *Id.*<sup>1</sup>

The statute also establishes deadlines for candidates to file their nomination papers with the Secretary's office, including all required signatures. For district and county offices, the deadline to file is the last Tuesday in May (this year, May 26); for party candidates for statewide and federal office, the deadline is the first Tuesday in June (this year, June 2); and for non-party candidates seeking statewide and federal offices, the deadline is the

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<sup>1</sup> The petitioners focus their emergency petition on G.L. c. 53, § 6, which establishes minimum signature requirements for nonparty candidates running for elected offices, including the offices of United States Senator, United States Representative, and State Representative. *Petition*, pp. 7-9. However, G.L. c. 53, § 44, governs the number of signatures required for candidates, like petitioners, seeking a political party's nomination for these offices in the state primary. Regardless, the number of signatures required for these offices under each statute is the same.

(footnote continued)

last Tuesday in August (this year, August 25). G.L. c. 53, §§ 10, 41, 48.<sup>2</sup>

Those deadlines establish the benchmarks for calculating a series of other deadlines to which candidates, local election officials, the Secretary, and others must adhere. This year, for candidates, the process began on February 11, when nomination papers first became available at the Secretary's office; under G.L. c. 53, § 47, this must occur by the 15<sup>th</sup> Tuesday before the deadline to file completed nomination papers and signatures with the Secretary's office. G.L. c. 53, § 47. No later than 90 days prior to the filing deadline for nomination papers - this year, by February 25 for district and county office and by March 3 for federal office - candidates must enroll or unenroll from political parties to conform to their plans to run as a party or non-party candidate. G.L. c. 53, §§ 6, 48. After gathering

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<sup>2</sup> None of the plaintiffs in this matter seeks a statewide or federal office as a non-party candidate. *Petition*, pp. 7-9. However, to provide the Court with a complete overview of the statutory deadlines related to signature gathering on nomination papers, the Secretary includes in his discussion those deadlines that apply to non-party candidates for statewide and federal offices.

signatures on their nomination papers, candidates must submit them to local election officials for certification of the signatures as valid and belonging to eligible voters. The deadline for doing so is the 28<sup>th</sup> day before papers are due to the Secretary, which this year is April 28 for party and non-party candidates for district and county office, May 5 for party candidates for federal office, and July 28 for non-party candidates for federal office. G.L. c. 53, §§ 7, 46.

Once they receive signatures from candidates, local election officials must complete the process of certifying those signatures no later than 21 days after the deadline for candidates' submissions. G.L. c. 53, §§ 7, 46. This year, those deadlines are May 19 for party and non-party candidates for district and county office, May 26 for party candidates for federal office, and August 18 for non-party candidates for federal office. *Id.* The certification process requires local election officials to examine every signature submitted to determine whether the voter who signed is currently registered to vote in the city, town, or district for which the candidate seeks office; whether

the voter is enrolled in any political party other than the one for which the candidate seeks nomination; and whether the voter has already been certified as signing for the same candidate. *Id.* These checks are performed manually, name by name, on the Voter Registration Information System ("VRIS"), a statewide electronic database of registered voters, which local election officials can access only on hardwired computer terminals provided by the Secretary. See Joint Statement of Facts, SPAF ¶¶ 2-5.<sup>3</sup> Because the system is not connected to the internet, remote access is not possible. *Id.* ¶ 4. If any signatures are not certified, local election officials must record the reasons why, using a set of symbols designated by the Secretary. G.L. c. 53, §§ 7, 46. A candidate may have as many signatures certified as the total number of signatures needed for the position the candidate seeks, plus an additional two-fifths. G.L. c. 53, § 7. Local election officials return certified nomination

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<sup>3</sup> The parties' Joint Statement of Facts consists of three parts: Agreed Facts ("AF"); Petitioners' Proposed Additional Facts as to Which the Secretary Does Not Agree ("PPAF"); and Secretary's Proposed Additional Facts as to Which the Petitioners Do Not Agree ("SPAF").

papers to candidates in hard copy; the candidates then file the papers with the Secretary's office. G.L. c. 53, § 48; 950 C.M.R. § 55.04.

Once the certification process is complete, candidates have 48 hours to apply for review of non-certified signatures with local election officials, and local election officials must complete any review by 24 hours prior to the deadline for candidates to file the papers with the Secretary. G.L. c. 55B, § 6.

Once nomination papers are filed with the Secretary by either May 26 (district and county offices), June 2 (party candidates for federal and statewide office), or August 25 (non-party candidates for federal office), candidates have 72 hours to withdraw nomination papers. G.L. c. 53, §§ 10, 48, 53A; G.L. c. 55B, § 5.

The same deadline - 72 hours after the deadline for submitting nomination papers to the Secretary - applies for filing any objections to candidate qualifications, including objections to the validity of signatures on nomination papers, with the State Ballot Law Commission (SBLC). G.L. c. 55B, § 5. Objections may be filed by candidates or by voters



registered in the district for which a candidate seeks nomination. *Id.* In years when objections have been filed, one common objection has been that a signature was forged or fraudulent, or that a voter was not in fact registered to vote in the district for which the candidate seeks nomination. SPAF ¶ 10. The SBLC may begin hearings on these objections on June 8 (district and county offices), June 15 (party candidates for federal office), or September 8 (non-party candidates for federal office). G.L. c. 55B, § 9. The SBLC then has 21 days to render decisions, meaning that their decisions are due by June 19 for district and county offices, June 26 for party candidates for federal office, and September 18 for non-party candidates for federal office. G.L. c. 55B, § 10.

## **II. The Ballot Preparation and Distribution Process**

Federal law requires that ballots be transmitted to military and overseas voters no later than 45 days prior to any federal election. See 52 U.S.C. § 20302(a)(8)(A). For the September 1 primary, which includes federal offices, ballots must be transmitted to military and overseas voters by July 18. *Id.* In order for local election officials to transmit ballots

out by that date, the ballots must be provided to local officials by July 14. SPAF ¶¶ 13, 20. In advance of that distribution, the Secretary's office must prepare, format, and proofread 2,200 ballot styles - 550 per political party - for the different jurisdictions in the Commonwealth, and provide translations of some of those ballots into additional languages, plus provide sufficient time to finalize the ballots. *Id.* ¶¶ 11-13. Typically, this process takes about three weeks. *Id.* ¶ 14.

In order to distribute ballots to local election officials by July 14, the Secretary must have the final names of candidates appearing on the ballots (meaning that all challenges before the SBLC and otherwise must be concluded) by June 23. SPAF ¶ 14. Even under ordinary circumstances, this presents a challenging timeline, as the SBLC's deadline to act on challenges pertaining to party candidates for federal office is June 26; if any such SBLC proceedings were to remain unresolved past June 23, the Secretary would either be forced to hold off on preparing the ballots for the relevant district (if the challenge pertained to a candidate for U.S. House of Representatives or

other district candidate) or be unable to finalize any ballots (if the challenge pertained to a candidate for U.S. Senate) until the challenge was resolved, cutting into the time required to ensure the accurate and complete preparation of ballots, which would likely result in overtime costs with the printer. AF ¶ 9.

### **III. Efforts of the Petitioners and Others to Gather Signatures Prior To and During the Pandemic**

Each of the three petitioners obtained nomination papers from the Secretary's office on February 11, 2020, the first day such papers were available. SPAF ¶ 45. Along with nomination papers, the petitioners were given a calendar of relevant deadlines and a booklet with instructions. SPAF ¶ 1. As of April 13, 2020, Petitioner Kevin O'Connor has 173 signatures that local election officials have certified in VRIS. *Id.* ¶ 48. Petitioner Robert Goldstein has 251 certified signatures. Petitioner Melissa Bower Smith has no signatures certified. *Id.* ¶¶ 47, 49.

Even in the time since social distancing guidelines were implemented, candidates have continued to gather signatures on nomination papers. SPAF ¶ 38. Some candidates have placed tables with blank signature pages and clean pens outside the homes of

the candidates or campaign volunteers, and then posted on social media that the signature pages were available for registered voters to stop by and sign, using a clean pen each time. *Id.* ¶ 39. Another campaign created an online form for registered voters to request blank signature pages by mail, which the campaign then mails to households with a preaddressed, stamped envelope. *Id.* ¶ 41.

#### **IV. Electronic Signatures**

##### **A. Definition of Electronic Signature**

By statute, nomination signatures must be made "in person." G.L. c. 53, § 7. There is no reference to, or definition of, electronic signatures in the Commonwealth's election laws governing the nomination process. SPAF ¶ 21.

As a practical matter, the concept of an electronic signature could take a number of different forms: a scanned, electronic copy of a document signed by hand; an electronic image of a signature dropped or pasted into an electronic document; an image of a signature created anew on an electronic document using software such as DocuSign or by electronically signing with a finger, stylus, or mouse; or a typed name on an

electronic form. *Id.* ¶ 22. The statute does not contemplate any of these formats. G.L. c. 53, § 7; SPAF ¶ 21. In addition, using typed names would make it more difficult to challenge signatures at the SBLC as being forged or fraudulent, possibly leading to further litigation. SPAF ¶ 24.

**B. Use of Electronic Signatures in Other Jurisdictions**

Due to the condensed timeframe of this matter, the Secretary has not had the opportunity to undertake a comprehensive review of the use of electronic signatures in other States. However, the Secretary is aware that at least one State - New Jersey - has allowed the use of electronic signatures during this public health emergency. SPAF ¶¶ 33. While New Jersey's experience is not necessarily representative, it is nonetheless illustrative of some of the technological pitfalls that Massachusetts might confront if electronic signatures were used here.

Pursuant to an executive order signed by the Governor on March 19, election officials in New Jersey can now take nomination papers on which the image of a signature appears, either by way of a physically-signed form that was scanned, an image of a signature

that was pasted or dropped onto the form, or by the voter creating a digital “handwritten” signature by way of software such as DocuSign or using their finger, stylus, or mouse. SPAF ¶¶ 33-34. They do not accept nomination papers containing just the typed name of a voter. *Id.* ¶ 34.

In New Jersey, unlike in Massachusetts, nomination papers are filed only with county election officials (for district or county offices) or state election officials (for federal and statewide offices), so the number of election officials receiving papers is far fewer than in Massachusetts, where each of the 351 cities and towns must certify signatures. SPAF ¶¶ 35; G.L. c. 53, §§ 7, 46. In addition, New Jersey does not require election officials to verify or certify voter signatures, but instead requires a witness to each signature. SPAF ¶ 36. In the current pandemic, New Jersey has deemed it sufficient for the witness to be the individual who distributes the nomination papers to the voter by email and receives back the electronically signed copy. *Id.* ¶ 36.

Since the implementation of the executive order, election officials in New Jersey have reported problems with receiving files that are too big to be delivered to the email addresses of election officials, despite having publicized the maximum file size each county is capable of receiving. SPAF ¶ 37. In addition, some candidates have submitted files via a link to an online storage site such as Google Drive or Dropbox, rather than sending the pages as attachments. *Id.* Some candidates initiated litigation when they were not placed on the ballot county officials, for security reasons, would not click on the links to retrieve their nomination papers. *Id.*

### **C. Cybersecurity Considerations**

Maintaining the security and integrity of the Commonwealth's electronic elections infrastructure is of critical importance to the Secretary. Law enforcement agencies such as the Cybersecurity and Infrastructure Security Agency (CISA) of the Department of Homeland Security (DHS), and the U.S. Treasury Financial Crimes Enforcement Network (FinCEN), have cautioned state and local government officials to be wary of opening unsolicited

attachments even from known senders. SPAF ¶¶ 29. CISA has issued particular warnings regarding the increased threat of cyberattacks such as phishing during the current pandemic. *Id.* And in January 2017, DHS designed elections infrastructure as “critical” in recognition that “its incapacitation or destruction would have a devastating effect on the country.” *Id.* ¶ 30.

### **DISCUSSION**

#### **I. THE COURT SHOULD BE GUIDED BY PRINCIPLES GOVERNING THE INTEGRITY OF THE ELECTORAL PROCESS AND THE FASHIONING OF EQUITABLE RELIEF.**

##### **A. Signature Requirements Serve the Commonwealth’s Substantial Interest in Protecting the Integrity of the Ballot**

It is “settled beyond hope of contradiction that states have a legitimate interest in ensuring that a candidate makes a preliminary showing of a substantial measure of support as a prerequisite to appearing on the ballot.” *Barr v. Galvin*, 626 F.3d 99, 111 (1st Cir. 2010). This principle is well established and has been recognized by this Court. *See Libertarian Ass’n of Massachusetts v. Secretary of the Commonwealth*, 462 Mass. 538, 567 (2012) (quoting *Barr v. Galvin*, 626 F.3d at 111). “Substantial support” requirements, such



as those in Chapter 53, are "meant to safeguard the integrity of elections by avoiding overloaded ballots and frivolous candidacies, which diminish victory margins, contribute to the cost of conducting elections, confuse and frustrate voters, increase the need for burdensome runoffs, and may ultimately discourage voter participation in the electoral process." *Libertarian Party of Maine v. Diamond*, 992 F.2d 365, 371 (1st Cir. 1993). The Supreme Court has characterized these interests as "of the highest order" and of "fundamental importance," *Lubin v. Panish*, 415 U.S. 709, 715 (1974); "vital" and "compelling," *American Party of Texas v. White*, 415 U.S. 767, 782 & n.14 (1974); "undoubted," *Munro v. Socialist Workers Party*, 479 U.S. 189, 194 (1986); and duties of the State, *Bullock v. Carter*, 405 U.S. 134, 145 (1972). A State's interest in having "ballots of reasonable size" is no longer "open to debate": "That 'laundry list' ballots discourage voter participation and confuse and frustrate those who do participate is too obvious to call for extended discussion." *Lubin v. Panish*, 415 U.S. at 715. The signature requirements at issue here serve that important interest by "ensuring

that the candidates who appear on the statewide ballot have demonstrable support among the voting public."

*Barr v. Galvin*, 626 F.3d at 111.

**B. Claims Challenging the Constitutionality of Ballot Access Measures Are Assessed Under a Test that Balances the Rights of Voters and Candidates Against the State's Interests in Regulating Elections**

Petitioners challenge applicability of the signature requirement under Massachusetts Declaration of Rights Article 9 as well as under the First and Fourteenth Amendments to the United States Constitution. The foregoing provisions protect the rights of candidates "to participate equally in the electoral process and [to] associate with one another to achieve policy goals," as well as the "interwine[d]" rights of voters "to associate with one another and cast their ballots as they see fit." *Libertarian Ass'n*, 462 Mass. at 560 (internal quotations omitted); *Glovsky v. Roche Bros. Supermarkets, Inc.*, 469 Mass. 752, 755 (2014). See also *Williams v. Rhodes*, 393 U.S. 23, 30 (1968) (discussing, as "overlapping" First Amendment rights, "the right of individuals to associate for the advancement of political beliefs, and the right of

qualified voters, regardless of their political persuasion, to cast their votes effectively").

In evaluating the validity of state provisions regulating ballot access, "the United States Supreme Court has developed a 'sliding scale approach,'" *Libertarian Ass'n*, 462 Mass. at 560 (quoting *Storer v. Brown*, 415 U.S. 724, 30 (1974)), balancing the "'character and magnitude' of the burden" on voters and candidates against the State's interest in regulating ballot access *Id.* (quoting *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997)). As a matter of federal constitutional law, restrictions "imposing severe burdens on plaintiffs' rights must be narrowly tailored and advance a compelling state interest." *Id.* In contrast, "[l]esser burdens . . . trigger less exacting review, and a State's 'important regulatory interests' will usually be enough to justify reasonable, nondiscriminatory restrictions." *Id.*

In considering the constitutionality of ballot access provisions under the Massachusetts Constitution, this Court has similarly followed a "sliding scale" test, guided by the foregoing federal

standards. See *Chelsea Collaborative v. Secretary of the Commonwealth*, 480 Mass 27, 35 (2018) ("In general, this 'sliding scale' analytical framework [discussed in *Libertarian Ass'n*, which relied on the Supreme Court's analysis in *Timmons*, 520 U.S. at 358] is appropriate for cases that involve voting rights under the Massachusetts Constitution"); *id.* (stating that, in *Libertarian Ass'n*, the Court "clarified that art. 9 does not extend any ballot access protections beyond the Federal constitutional requirements").

This Court has recognized that "there may be circumstancesa where the Massachusetts Declaration of Rights and art. 3 [governing the 'right to vote'] require application of [the sliding scale] analysis in a manner that 'guard[s] more jealously against the exercise of the State's police power' than the application of the framework under the Federal Constitution." *Chelsea Collaborative*, 480 Mass. at 35. Relatedly, the Court in *Chelsea Collaborative* used slightly different terminology than that used in reference to the federal Constitution, in describing the circumstances triggering use of the strict scrutiny standard to assess the validity of a state

ballot access provision. Whereas the touchstone for strict scrutiny under the federal standard is whether a "severe burden" has been placed on voting rights, this Court has used a "significant interference" formulation in the context of applying the Massachusetts Constitution. See *id.* at 40; *id.* at 36 n.21 ("[W]e do not use the term 'severe burden' in our analysis here," in part because of the Court's recognition that the Massachusetts Constitution may in some circumstances be more protective than the federal Constitution).

As discussed in the next section below, any differences between state and federal constitutional protections or in application of the "sliding scale" analysis to state and federal constitutional claims should not affect the outcome in the unusual context of this case.

**C. The Secretary Acknowledges that Heightened Scrutiny Applies in the Extraordinary Circumstances Presented by the Current Public Health Crisis**

Under ordinary circumstances, strict adherence to the signature requirements at issue here imposes only a minimal burden on candidates, and the signature requirements thus readily satisfy the less exacting

scrutiny that applies in such circumstances under both the state and federal Constitutions. *Libertarian Ass'n*, 462 Mass. at 568 (upholding application of signature requirement to non-party presidential candidates under Mass. Declaration of Rights art. 9); *Barr v. Galvin*, 626 F.3d at 108-11 (rejecting equal protection challenge to signature requirement as applied to non-party presidential candidates). See generally *Timmons*, 520 U.S. at 358 (a state's "important regulatory interests" are generally enough to justify reasonable, non-discriminatory restrictions); *Burdick v. Takushi*, 504 U.S. 428, 440 n.10 (1992) ("limiting the choice of candidates to those who have complied with state election law requirements is the prototypical example of a regulation that, while it affects the right to vote, is eminently reasonable").

Here, however, the parties agree that, due to the current declared state of emergency resulting from COVID-19, the present circumstances are anything but ordinary. The Secretary acknowledges that, as a practical matter, application of the signature requirements in the context of the current public

health crisis imposes a greater than usual burden on petitioners, triggering heightened scrutiny. *See Omari Faulkner for Virginia v. Virginia Dep't of Elections* (Va. Cir., No. CL 20-1456, Order dated March 25, 2020) (copy attached at Addendum 70-74).

For that reason, in the context of the present controversy, the Court need not resolve any differences between the protections provided by the relevant state and federal constitutional provisions, or the extent of burden that must be established to trigger strict scrutiny ("significant interference" or "severe burden") depending on whether the claim arises under the state or federal Constitution, as described above in Discussion Section IB.

**D. While the Issues Raised by Plaintiffs are Best Addressed by the Legislature, the Court Has the Power to Fashion an Appropriate Remedy in the Absence of Timely Legislative Action, Including Providing for the Electronic Collection of Signatures.**

Because any response to the challenges to the signature gathering process posed by the current crisis call will entail some degree of line-drawing and policy judgment, the Secretary submits that the Legislature is the preferred body to devise such a response. However, the Secretary acknowledges that any

such legislative action, in order to be effective, must happen immediately.<sup>4</sup> And, in the absence of legislative action, in these extraordinary circumstances, this Court has the power to grant equitable relief under G.L. c. 214, § 1 and the authority to "make binding declarations of right" under G.L. c. 231A, § 1 -- in a manner that is reasonably detailed and prescriptive -- to protect the constitutional rights of the Petitioners (and those similarly situated).

As a general matter, Article 30's principle of separation of powers constrains the "judiciary [from] substituting its notions of correct policy for that of a popularly elected Legislature." *Commonwealth v. Leno*, 415 Mass. 835, 841 (1993) (internal citations omitted). This principle generally prevails even where the Court finds that application of a statute would result in a violation of constitutional rights. Thus, in *Cepulonis v. Secretary of Commonwealth*, 389 Mass.

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<sup>4</sup> As referenced below, the Massachusetts Senate is considering a bill that would reduce by half the number of signatures required in races where the requirement would otherwise be 1,000 or more. This bill, however, has not yet been voted on by the Senate.



930 (1983), the Court concluded that two Massachusetts statutes were unconstitutional to the extent they prevented prisoners from registering to vote, but the Court nonetheless "refrain[ed] from ordering affirmative relief." *Id.* at 937. The Court explained that an acceptable process for absentee registration "is primarily a matter for legislative consideration and determination, and ... judicial relief becomes appropriate only when a legislature fails to [provide that process] according to [State] constitutional requisites in a timely fashion after having had an adequate opportunity to do so.'" *Id.* at 937-38 (quoting *Reynolds v. Sims*, 377 U.S. 533, 586 (1964)).

Of course, the import of the above language in *Cepulonis* is that where the Legislature does *not* act "in a timely fashion" to address the unconstitutional application of a statute, then judicial relief may "become[] appropriate." *Id.* This comports with the general principle that the judiciary has the ability to fashion appropriate relief to address what it determines to be constitutional violations. *See, e.g., Commonwealth v. United Food Corp.*, 374 Mass. 765, 781 (1978) ("In order to avoid the unconstitutional

aspects of [the statute at issue], and to achieve the basic legislative purpose, we conclude that the judge must have discretion to fashion the judgment in this case ..."); *American Trucking Associations, Inc. v. Sec'y of Administration*, 415 Mass. 337, 350 (1993) (case remanded to Superior Court to choose appropriate remedy among "a variety of [permissible] methods of curing an unconstitutional tax"). But such a judicial remedy should be narrowly tailored and "no more intrusive than it ought reasonably be to ensure the accomplishment of the legally justified result." *Perez v. Boston Hous. Auth.*, 379 Mass. 703, 730 (1980). See also *Lewis v. Casey*, 518 U.S. 343, 357 (1996) (judicial remedy should be "limited to the inadequacy that produced the injury in fact that the plaintiff has established").

In the election context specifically, there is precedent for courts' issuance of affirmative injunctive relief in exigent circumstances to prevent voter disenfranchisement. See, e.g., *Georgia Coalition for the People's Agenda, Inc. v. Deal*, 214 F. Supp.3d 1344, 1345-46 (S.D. Ga. 2016) (ordering extension of voter registration deadline for one county in response

to Hurricane Matthew); *Florida Democratic Party v. Scott*, 215 F. Supp. 3d 1250, 1257-59 (N.D. Fla. 2016) (ordering state-wide extension of voter registration deadline in response to Hurricane Matthew); *Doe v. Walker*, 746 F. Supp. 2d 667, 682-84 (D. Md. 2010) (ordering extension of state deadline for receipt of absentee ballots where deadline imposed an unreasonable burden on overseas voters); *Action NC v. Strach*, 216 F. Supp. 3d 597, 647-48 (M.D.N.C. 2016) (ordering election official to "treat as registered" voters who met court-specified requirements where DMV allegedly failed to transmit voter registration information as required by statute). Notably, here in Massachusetts, the Secretary has from time to time sought and obtained court orders from the Superior Court to postpone statutory election-related deadlines in the event of weather-related emergencies. See Addendum 75-80.

With respect to the County Court's inquiry in the Reservation and Report as to whether this Court has the "authority to order the electronic collection of signatures, as a means of remedying the constitutional violation," the Secretary submits that any such order

should be narrowly tailored to address any constitutional violations while safeguarding the integrity of the election process and upholding the principles described above, *see supra* Discussion Section IA, and should take into consideration the cautions urged by the Secretary below, *see infra* Discussion Section IIID.

**II. THE COURT SHOULD NOT GRANT PETITIONERS' OVERBROAD REQUEST THAT THE SIGNATURE REQUIREMENTS BE DECLARED VOID AND UNENFORCEABLE.**

Petitioners' first request for relief is that the Court issue a declaratory judgment to the effect that "the per-office signature requirements" in Chapter 53 are "void" in light of current circumstances.

*Petition*, p. 41. In other words, they apparently seek a declaration from the Court that no signatures are required for candidates to secure their name on a ballot. For a number of reasons, this request should be denied.

First, as explained above, *see supra* Discussion Section IA, the Commonwealth has a compelling interest in preserving and furthering - to the extent possible - the "substantial support" requirements that are embedded in Chapter 53. *Libertarian Party*, 462 Mass.

at 567; *Barr*, 626 F.3d at 111. These requirements are of "fundamental importance" to maintaining the integrity of the state and federal election process that the Secretary oversees for the Commonwealth. *Lubin*, 415 U.S. at 715. To simply declare the signature requirements "void" and, therefore, unenforceable would ignore these interests and could lead to exactly the type of "overloaded ballots and frivolous candidacies" that are detrimental to the electoral process. *Libertarian Party*, 992 F.2d at 371. Indeed, if the signature requirements were disposed of entirely, it would effectively mean that - within a day or two - anyone could potentially qualify for placement onto a federal or state ballot, which could lead to an unwieldy and unintelligible process going forward.

Second, as a practical matter, the Petitioners' request for a wholesale elimination of the signature requirements is unnecessarily drastic. As outlined above, *see supra* Factual Background Section III, even in the current environment, there are ways in which candidates can continue to gather signatures, albeit much less efficiently. And, of course, candidates had

the opportunity to gather signatures before the Governor's issuance of his executive orders on social distancing, restricting public gatherings and requiring the closure of "brick and mortar" offices of non-essential businesses and organizations; candidates could have gathered signatures, for example, during the March 3 Presidential Primary.<sup>5</sup> Thus, it is not unreasonable for candidates to be expected to gather some quantum of signatures in order to appear on the ballot.

Third, the Petitioners' request is inconsistent with the basic principle, referenced above, that injunctive relief should be drawn narrowly and "no more intrusive than it ought reasonably be" to address the constitutional issue that has been identified. *Perez*, 379 Mass. at 730. "This rule of the reasonably-confined remedy has obvious and peculiar relevance where public officials are the objects of injunction." *Id.* See also *Boston Teachers Union, Local 66 v. City*

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<sup>5</sup> Notably, 41 days elapsed between the date on which nomination papers first became available to candidates (February 11, 2020) and the Governor's Executive Order on March 23, 2020, limiting gatherings to 10 or fewer people and requiring the closure of the brick-and-mortar premises of non-essential businesses and organizations.

*of Boston*, 382 Mass. 553, 566 (1981) ("Where equitable relief is appropriate, it should be confined within narrow limits."). Here, the Secretary submits that there are reasonable alternatives to a judicial order that would remove the signature requirement entirely, and that any relief granted by the Court should be limited to these narrower alternatives. See *Davenport v. Washington Educ. Ass'n*, 551 U.S. 177, 185-86 (2007) ("[I]t would be improper for a court to enjoin the expenditure of the agency fees of all employees, including those who had not objected, when the statutory or constitutional limitations in those cases could be satisfied by a narrower remedy.").

### **III. LEGAL AND PRACTICAL CONSIDERATIONS IMPLICATED BY THE PETITIONERS' ALTERNATIVE PROPOSED REMEDIES**

Bearing in mind the constitutional and statutory principles underlying the nomination signature requirements, the Secretary addresses each of the Petitioners' more narrowly tailored alternative proposed remedies in turn, including the possibility of making some or all of the signature-gathering process electronic. As described below, viewing the nomination and ballot preparation process as a whole, and keeping in mind the valid purpose of the

nomination signatures requirement, the Secretary submits that the least disruptive remedy would be a reduction in the number of signatures required for races requiring 1,000 or more signatures, in conjunction with extending the deadline for district and county candidates (for whom the number of signatures required is lower than 1,000) to match the later deadline for candidates for federal office. Alternatively, or additionally, permitting a form of electronic signatures in the limited manner the Secretary sets forth below would enable greater flexibility for candidates and voters, as long as it could be done consistently with orderly election administration and security concerns.

**A. Petitioners' First Proposal: Substantially Reducing the Number of Signatures Required**

The Plaintiffs' first proposed alternative remedy, a "substantial reduction" in the number of signatures required, is consistent with the proposal currently pending in the Massachusetts Senate as S. 2632, which would reduce by half the number of signatures required of candidates for whom the statute requires 1,000 or more signatures (notably, this would not provide relief to candidates for state Senate or



the state House of Representatives). See Addendum 68-69.<sup>6</sup> The Secretary notes that this proposed remedy, depending on the number of signatures required, would be consistent with the legitimate government interest underlying signature requirements, as it would still require candidates to demonstrate public support in order to appear on the ballot, and would serve to mitigate concerns about crowding the ballot with candidates who are not able to demonstrate such support. A remedy consisting exclusively of a reduction in the number of signatures required would leave undisturbed the crowded timeline of events that must take place between the time that candidates submit nomination papers and when the ballots are prepared and distributed for the election, as well as ease the burden on local election officials to certify signatures amidst their own operating constraints during the pandemic.

This remedy leaves a substantial question for the Court to determine: what number of signatures is

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<sup>6</sup> As of April 14, 2020, the status of S. 2632 has been "placed in the Orders of the Day for the next session" and has not yet been taken up on the floor.  
<https://malegislature.gov/Bills/191/S2632>.

appropriately required under the current circumstances? In addition, it raises the question of whether the reduction should be differently tailored for different offices since the burden of gathering 10,000 signatures (for a U.S. Senate candidate) is vastly different than the burden of gathering 150 signatures (for a state representative candidate) - a task that one State Representative candidate managed to complete in one day even during the pandemic and observing the principles of social distancing. SPAF ¶ 39.

The Secretary notes that, despite the legal and logistical advantages to this proposed remedy over others, there will inevitably be candidates who, despite operating under the same conditions and restrictions as the Petitioners, have already gathered sufficient signatures to appear on the ballot and may view this remedy as unfair.<sup>7</sup> And depending on where the

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<sup>7</sup> Candidates who have already qualified to appear on the ballot are not limited to incumbents. For example, Padraic Rafferty, a first-time candidate for Governor's Council in the 7<sup>th</sup> district, has qualified for the Democratic Primary ballot by filing 1,109 certified signatures and additional required paperwork with the Secretary's office. In the Ninth Hampden Representative District, two first-time candidates, (footnote continued)

Court were to set the new requirement, there may be candidates who have not yet met the statutory thresholds, but who have collected signatures well in excess of the new requirement.

Understanding those concerns, the Secretary submits that the Court ought to tailor any proposed reduction in the number of required signatures to target those races where larger numbers of signatures would otherwise be required, as the Senate proposal does, by reducing the number of required signatures by 50% in races requiring 1,000 or more signatures. This would operate to maintain a requirement for candidates to demonstrate a modicum of public support, while easing that requirement significantly in races where it would otherwise be more burdensome. In the sections below addressing the possibility of extending deadlines and/or permitting some form of electronic signatures, the Secretary describes other possible remedies that could be more universally applied to all

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Denise Marie Hurst and Orlando Ramos, have already qualified to appear on the Democratic Primary ballot having filed over 150 certified signatures, a written acceptance, an enrollment certificate and a receipt from the State Ethics Commission showing they have filed a statement of financial interest with that agency. SPAF ¶ 42.

races and/or could be adopted in conjunction with a reduction in the number of required signatures.

**B. Petitioners' Second Proposal: Declaring that Candidates Who Have Pulled Nomination Papers and Commenced a Good-Faith Effort to Collect Signatures Should Not Be Excluded from the Ballot for Lack of Certified Signatures**

The Petitioners' second proposal, that this Court declare that candidates who have made a good-faith effort to collect signatures not be excluded from the ballot, would be practically difficult and invite disparate application. Even if the Court were to offer guidance for what constitutes a "good faith effort," the analysis of what constitutes good faith effort will almost certainly be both fact- and circumstance-dependent and could vary widely. And such guidance would need to be squared with the constitutionally sound purpose for requiring nomination signatures: to prevent flooding of the ballot with candidates who have not demonstrated meaningful support from the public.

As a practical matter, this proposed remedy leaves open the question of who would make the determination as to each candidate. Requiring the Secretary to do so would impose an additional burden

on state election officials whose resources are already stretched thin. It would no doubt result in legal challenges to those determinations by unsatisfied candidates, causing additional strain on the court system and potentially causing disarray and delay in the already tight timeline for preparing ballots.

This proposed remedy could also result in candidates being held to disparate standards for the number of signatures required. A determination of what constitutes "good faith effort" will necessarily have to take into account the individual candidate's resources and circumstances, which will no doubt vary widely. One candidate might therefore be said to have made a "good faith effort" despite having gathered only a small fraction of the signatures obtained by an opponent, with the result being that disparate determinations of "good faith effort" could advantage candidates without demonstrable support among the voters. In light of these substantial issues, the Secretary submits that the Court should not adopt this proposed remedy.

**C. Petitioners' Third Proposal: Extending the  
Deadline for Submission of Signatures**

Given the interrelated series of deadlines and requirements that are dependent upon the deadline for submission of signatures, *see supra* Factual Background Sections I and II, the Secretary submits that extending the deadline for submission of signatures beyond the deadlines applicable to candidates for federal office - May 5 for submission to local election officials, and May 26 for submission to the Secretary - would be unworkable, but suggests that the deadlines applicable to candidates for district and county offices could be extended to match those for candidates for federal office. Because the duration of the current state of emergency and social distancing guidelines is uncertain, it is difficult to know what length extension would adequately remedy the Petitioners' constitutional concerns. And extending the federal candidates' deadline by even a matter of days would cause an inexorable collision with other deadlines. This, in turn, could potentially deprive voters and candidates of the due process afforded by challenges at the SBLC, and create a very real risk that the Secretary would be unable to prepare and

deliver ballots on time. The driver of the schedule, the federal deadline for sending ballots to military and overseas voters, is not within this Court's authority to alter. And given the worldwide pandemic, further reducing the time for military and overseas voters to receive and submit their ballots would create an undue burden on the right of those voters to participate in the election. Extending the deadline for candidates for district and county offices only, to match the deadline for candidates for federal office, would provide some measure of relief to those candidates while avoiding these other significant complications.

**D. Petitioners' Fourth Proposal: Ordering State Officials to Explore "Less Stringent Strategies," Such as the Electronic Collection of Signatures, as a Means of Remediating the Constitutional Violation**

As described above, see *supra* Factual Background Section IV, "the electronic collection of signatures" could mean a wide variety of things, ranging from allowing typed names on an online document, to scanned copies of physical nomination papers signed by hand.

Regardless of the method chosen, permitting the electronic collection of signatures in any form

creates equity issues arising from the varied access to technology, printers, and internet connectivity across the Commonwealth. Access to computer technology and internet connectivity, while widespread, is by no means universal. One practical consequence of employing electronic signature collection may be to functionally limit the number of voters who are able to take advantage of this method to demonstrate support for their preferred candidate, because some voters may not have computers, smartphones, printers, or even internet access, and ordinary resources like public libraries are not available during the pandemic.

Depending on the method chosen, a variety of practical considerations are relevant. If the Court were to order local election officials to accept electronic files, either from individual voters or in batches from campaigns, for certification, both resource and cybersecurity considerations may limit the ability of local officials to implement such a system. For example, some municipalities may have limits on the size of electronic files they may receive, as in New Jersey, and that limit will likely



vary among municipalities, requiring campaigns to tailor electronic files accordingly. Municipalities employ varying systems to protect their electronic infrastructure, resulting in differences in how they block or permit attached files. Municipalities may also have, for cybersecurity reasons, limited the ability of their computers to access online file storage sites like Google Drive or Dropbox. And the number of staff and computers, speed of internet connection, and technological savvy of local election officials will inevitably vary widely, impacting their ability to process electronically submitted signatures. Moreover, permitting typed names would effectively foreclose challenges at the SBLC based on the signature being the product of fraud or forgery, as there would be little evidence upon which to determine whether the name was actually entered by the voter herself.

Implementation of any system for the electronic collection and submission of nomination signatures under the current circumstances would necessarily shortcut the typical process of careful consideration, vetting, testing, and guided roll-out to local

officials in the Commonwealth's 351 cities and towns that the Secretary would otherwise ordinarily employ when making such significant changes to the election process. To mitigate the possibility of creating unintended problems, whether logistical, legal, or security-related, associated with a rushed implementation, the Secretary urges the Court to carefully consider the various electronic options discussed above and employ the most minimally disruptive system necessary to address the Petitioners' constitutional concerns. Ensuring the integrity of our election process must be considered along with the other interests implicated by the Petitioners' claims.

To that end, if the Court is inclined to order some form of electronic signature collection, the Secretary urges the following proposed solution: candidates may scan and post or otherwise distribute their nomination papers online,<sup>8</sup> voters may print or

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<sup>8</sup> Consistent with other statutory provisions, these online papers would need to be an exact replica of the paper version, but could be formatted to print on standard letter-sized paper instead of the 8.5" x 14" legal-sized paper on which the Secretary ordinarily provides nomination papers. G.L. c. 53, § 17, *Robinson*  
(footnote continued)

download the image of the nomination papers and either apply an electronic signature with a computer mouse or stylus, or sign the printed version, returning the signed nomination document to the campaign in either electronic (native or scanned paper) or paper form (by mail). As is currently required, the candidates would still have to submit the nomination papers to local election officials for certification in hard copy paper format; this requirement eliminates the cybersecurity risk to local election officials presented by file attachments or transfers, and minimizes the burden of downloading files on those officials, who are themselves operating under significant constraints, with differing levels of technology, and who must ultimately provide paper copies of certified signatures to the candidates for submission to the Secretary's office. This solution fairly balances the constraints under which voters, candidates, and election officials are working during the pandemic, allows for the collection and submission of signatures while maintaining social distancing, and

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*v. State Ballot Law Comm'n*, 432 Mass. 145, 151-52 (2000).

is faithful to the constitutionally-sound legal principle that candidates must demonstrate sufficient public support to appear on the ballot.

**CONCLUSION**

For the foregoing reasons, the Secretary respectfully requests that this Court act in accordance with the principles described above.

Respectfully submitted,

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Date: April 14, 2020

**CERTIFICATE OF COMPLIANCE**

I, Anne Sterman, hereby certify that the foregoing brief complies with all of the rules of court that pertain to the filing of briefs, including, but not limited to, the requirements imposed by Rules 16 and 20 of the Massachusetts Rules of Appellate Procedure. The brief complies with the applicable length limit in Rule 20 because it is 43 pages long (not including the portions of the brief excluded

under Rule 20) in 12-point Courier New font, which prints approximately 10 characters per inch.

/s/ Anne Sterman  
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Assistant Attorney General

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2020, I filed with the Supreme Judicial Court and served the attached Brief of the Secretary of the Commonwealth in Goldstein et al. v. Galvin, No. SJC 12931 by email and through the Court's electronic filing system, on the following:

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## ADDENDUM

G.L. c. 53, § 6.....	Add. 55
G.L. c. 53, § 7.....	Add. 57
G.L. c. 53, § 41.....	Add. 60
G.L. c. 53, § 44.....	Add. 61
G.L. c. 53, § 46.....	Add. 62
G.L. c. 53, § 47.....	Add. 64
G.L. c. 53, § 48.....	Add. 65
Massachusetts Senate Bill No. 2632 (April 13, 2020).....	Add. 68
Omari Faulkner for Virginia v. Virginia Dep't of Elections (Va. Cir., No. CL 20-1456, Order dated March 25, 2020).....	Add. 70
<i>Galvin v. Town of Acushnet, et al.</i> , Suffolk Super. Ct. No. 18-0810C (Order dated March 12, 2018).....	Add. 75
<i>Galvin v. Town of Reading, et al.</i> , Suffolk Super. Ct. No. 17-0781A (Order dated March 13, 2017).....	Add. 78

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters,  
Primaries and Caucuses (Refs & Annos)

## M.G.L.A. 53 § 6

### § 6. Nomination papers; contents; number of signatures; unenrolled candidates

#### Currentness

Nominations of candidates for any offices to be filled at a state election may be made by nomination papers, stating the facts required by [section eight](#) and signed in the aggregate by not less than the following number of voters: for governor and lieutenant governor, attorney general, United States senator, and presidential electors, ten thousand; for state secretary, state treasurer, and state auditor, five thousand; for representative in congress, two thousand; for state senator, three hundred; for state representative, one hundred and fifty; for councillor, district attorney, clerk of courts, register of probate, register of deeds, county commissioner, sheriff, and county treasurer, one thousand, except for clerk of courts, register of probate, register of deeds, county commissioner, sheriff, and county treasurer, in Barnstable, Berkshire, Franklin, and Hampshire counties, five hundred, and for any such offices in Dukes and Nantucket counties, twenty-five. In the case of the offices of governor and lieutenant governor, only nomination papers containing the names and addresses of candidates for both offices shall be valid. Nominations of candidates for offices to be filled at a city or town election, except where city charters or general or special laws provide otherwise and nominations of candidates for the office of regional district school committee members elected district-wide, may be made by like nomination papers, signed in the aggregate by not less than such number of voters as will equal one percent of the entire vote cast for governor at the preceding biennial state election in the electoral district or division for which the officers are to be elected, but in no event by less than twenty voters in the case of an office to be filled at a town election or election to a regional district school committee elected district-wide; provided, however, that no more than fifty signatures of voters shall be required on nomination papers for such town office or regional district school committee elected district-wide. At

a first election to be held in a newly established ward, the number of signatures of voters upon a nomination paper of a candidate who is to be voted for only in such ward shall be at least fifty.

The name of a candidate for election to any office who is nominated otherwise than by a political party, generally referred to as an "Unenrolled" candidate, shall not be printed on the ballot at a state election, or on the ballot at any city or town election following a city or town primary, unless a certificate from the registrars of voters of the city or town wherein such person is a registered voter, certifying that he is not enrolled as a member of any political party, is filed with the state secretary or city or town clerk on or before the last day provided in [section ten](#) for filing nomination papers. Said registrars shall issue each certificate forthwith upon request of any such candidate who is not a member of a political party or his authorized representative. No such certificate shall be issued to any such candidate who shall have been an enrolled member of any political party during the time prior to the last day for filing nomination papers as provided in [section ten](#), and on or after the day by which a primary candidate is required by [section forty-eight](#) to establish enrollment in a political party.

Sections six and [ten](#) shall not apply to primary candidates nominated under [sections twenty-three](#) to [seventy I](#), inclusive, except as expressly provided otherwise.



Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters,  
Primaries and Caucuses (Refs & Annos)

## **M.G.L.A. 53 § 7**

**§ 7. Nomination papers; signatures; addresses; submission; deadlines;  
correction procedures; certification and checking; special elections**

Effective: October 28, 2004

Currentness

Every voter signing a nomination paper shall sign in person as registered or substantially as registered, and shall state the address where he or she is currently registered, but any voter who is prevented by physical disability from writing may authorize some person to write his or her name and residence in his or her presence.

Every nomination paper of a candidate for a city or town office shall be submitted to the registrars of the city or town where the signers appear to be voters on or before five o'clock post meridian of the fourteenth day preceding the day on which it must be filed with the city or town clerk. Every nomination paper of a candidate for a state office shall be submitted to the registrars of the city or town where the signers appear to be voters on or before five o'clock post meridian of the twenty-eighth day preceding the day on which it must be filed with the state secretary; and certification of nomination papers of candidates for state office shall be completed no later than the seventh day before the final day for filing said papers with the state secretary.

The registrars shall inform the candidate submitting such papers if the designation of the district only in which he seeks office is incorrect, and shall give said candidate the opportunity to insert the correct designation on such papers before the signatures are certified. The registrars shall, if the candidate so desires, allow a change of district on the nomination papers, in the presence of the candidate whose name appears on the nomination papers, and the registrar and the candidate shall

both initial the change of district so made and further shall in writing explain the change of district causing three copies to be made, one of each for the registrar and candidate and one to be attached to the nomination papers. If the correct district designation is not so inserted, the nomination papers shall not be approved. In no case may a correction be made to change the office for which such candidate is nominated.

Every initiative, referendum or other ballot question petition paper, except an application for a public policy question under [sections nineteen to twenty-two](#), inclusive, shall be submitted to the registrars of the city or town where the signers appear to be voters on or before five o'clock post meridian of the fourteenth day preceding the day on which it must be filed with the state secretary; and certification of such papers shall be completed no later than the second day before the final day for filing said papers with the state secretary. In the case of special elections, every nomination paper shall be submitted to the registrars of the city or town where the signers appear to be voters on or before five o'clock post meridian in the afternoon of the seventh day preceding the day on which it must be filed with the state secretary; and certification of nomination papers of candidates shall be completed no later than the twenty-four hours before the final hour for filing said papers with the state secretary, except that, for special elections for senator or representative in congress, every nomination paper shall be submitted to the registrars of the city or town where the signers appear to be voters at or before 5:00 p.m. of the fourteenth day preceding the day on which it must be filed with the state secretary, and certification of nomination papers of candidates shall be completed no later than the 72 weekday hours before the final hour for filing those papers with the state secretary.

Each nomination paper shall be marked with the date and time it was submitted and such papers shall be certified in order of submission. In each case the registrars shall check each name to be certified by them on the nomination paper and shall forthwith certify thereon the number of signatures so checked which are names of voters both in the city or town and in the district for which the nomination is made, and only names so checked shall be deemed to be names of qualified voters for the purposes of nomination. The registrars shall place next to each name not checked symbols designated by the state secretary indicating the reason that name was disqualified. The registrars shall certify a number of names that are required to make a nomination, increased by two fifths thereof, if they are submitted in a timely manner for a certification.

The state secretary need not receive nomination papers for a candidate

after receiving such papers containing a sufficient number of certified names to make a nomination, increased by two fifths thereof.

For the purposes of this section a registered voter who in signing his name to a nomination paper inserts a middle name or initial in, or omits a middle name or initial from, his name as registered shall be deemed to have signed his name substantially as registered. If the registrars can reasonably determine from the form of the signature the identity of the duly registered voter, the name shall be deemed to have been signed substantially as registered. The provisions of this section shall apply in all cases where any statute, special act, or home rule charter requires the certification of the signature of a voter by boards of registrars of voters. Signatures shall not be certified on nomination papers or initiative and referendum petitions from more than one city or town per sheet.

The state secretary shall promulgate regulations designed to achieve and maintain accuracy, uniformity, and security from forgery and fraud in the procedures for certifying nomination papers and petitions for ballot questions and names thereon pursuant to this section, and to ensure proper delivery of certified nomination papers and petitions by registrars to the person or organization who submitted such papers or petitions.

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters,  
Primaries and Caucuses (Refs & Annos)

## M.G.L.A. 53 § 41

### § 41. Sections applicable to nominations at state primaries

Currentness

Primaries shall be held for the nomination of candidates of political parties for all offices to be filled at a state election, except presidential elector. Sections forty-two to fifty-three A, inclusive, shall apply to such primaries.

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters,  
Primaries and Caucuses (Refs & Annos)

## M.G.L.A. 53 § 44

### § 44. Nomination papers; number of signatures

Currentness

The nomination of candidates for nomination at state primaries shall be by nomination papers. In the case of the governor, lieutenant-governor, attorney general and United States senator, nomination papers shall be signed in the aggregate by at least ten thousand voters; in the case of the state secretary, state treasurer and state auditor, they shall be signed by at least five thousand voters. Such papers for all other offices to be filled at a state election shall be signed by a number of voters as follows: for representative in congress, two thousand voters; for councillor, district attorney, clerk of courts, register of probate, register of deeds, county commissioner, sheriff and county treasurer, one thousand voters, except that in Barnstable, Berkshire, Franklin, and Hampshire counties such papers for nomination to the office of clerk of courts, register of probate, register of deeds, county commissioner, sheriff and county treasurer shall be signed by five hundred voters; for state senator, three hundred voters; for representative in the general court, one hundred and fifty voters. In Dukes and Nantucket counties such papers for nomination to all offices within the county to be filled at any state election shall be signed by twenty-five voters. In no event shall the number of signatures required be more than the number of a candidate for the same office in the same electoral district or division to have his name placed on the ballot as provided for under [section six](#).

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters,  
Primaries and Caucuses (Refs & Annos)

## **M.G.L.A. 53 § 46**

### **§ 46. Nomination papers; submission to registrars; certification; correction of district; number of names**

Effective: October 28, 2004

[Currentness](#)

Every nomination paper of a candidate for state office shall be submitted on or before five o'clock post meridian of the twenty-eighth day preceding the day on which it must be filed with the state secretary to the registrars of the city or town in which the signers appear to be voters; provided, however, that before special state primaries, every such nomination paper shall be so submitted on or before five o'clock post meridian of the seventh day preceding the day on which it must be filed with the state secretary, except that, for special elections for senator or representative in congress, every nomination paper shall be submitted to the registrars of the city or town where the signers appear to be voters at or before 5:00 p.m. of the fourteenth day preceding the day on which it must be filed with the state secretary, and certification of nomination papers of candidates shall be completed no later than the 72 weekday hours before the final hour for filing those papers with the state secretary. Every nomination paper of a candidate for president at the presidential primaries shall be submitted to said registrars on or before five o'clock post meridian of the fourteenth day before the final date for filing said papers with the state secretary and certification of said papers shall be completed no later than the seventh day before the final day for filing said papers with the state secretary. Nomination papers for candidates for state, ward, and town committees shall be submitted to said registrars on or before five o'clock post meridian on the eleventh day before the final day for filing with the state secretary and certification shall be completed no later than the fourth day before the final day for filing said papers with the state secretary. Each nomination paper shall be marked with the date and time it was submitted and such papers shall be certified

in order of submission. Said registrars shall check each name to be certified by them on the nomination paper and shall forthwith certify thereon the number of signatures so checked which are names of voters both in the city or town and in the district for which the nomination is made, and who are not enrolled in any other party than that whose nomination the candidate seeks, and only names so checked shall be deemed to be names of qualified voters for the purpose of nomination. The registrars shall place next to each name not checked symbols indicating the reason that name was disqualified. The certification of voters shall be signed by a majority of the board of registrars.

The registrars shall inform the candidate submitting such papers if the designation of the district only in which he seeks office is incorrect, and shall give said candidate the opportunity to insert the correct designation on such papers before the signatures are certified. The registrars shall, if the candidate so desires, allow a change of district on the nomination papers in the presence of the candidate whose name appears on the nomination papers, and the registrar and the candidate shall both initial the change of district so made and further shall in writing explain the change of district causing three copies to be made, one of each for the registrar and candidate and one to be attached to the nomination papers. If the correct district designation is not so inserted, the nomination papers shall not be approved. In no case may a correction be made to change the office for which such candidate is nominated.

The provisions of [section seven](#) relative to the number of names to be certified and received, and, except as otherwise provided in this section, the provision relative to time of certification shall apply to such papers.

No person shall be a candidate for nomination for more than one office; but this shall not apply to candidates for membership in political committees.

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters,  
Primaries and Caucuses (Refs & Annos)

## **M.G.L.A. 53 § 47**

### **§ 47. Nomination papers; preparation; availability**

[Currentness](#)

Nomination papers for use in the nomination of candidates to be voted for at state primaries shall be prepared, and on request furnished, by the state secretary. Nomination papers for use in the nomination of candidates for all offices shall be available for use on or before the fifteenth Tuesday preceding the date for filing as provided in [section forty-eight](#), except in the case of primaries before special elections. In no case shall any blank forms for such nominations be larger than eight and one half inches by fourteen inches, nor shall anyone be prohibited from making exact copies of such forms provided by the secretary of state for the purpose of collecting signatures for such nominations, nor shall any such copies be rejected for certification or submittal to the secretary of state.



Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 53. Nominations, Questions to be Submitted to the Voters,  
Primaries and Caucuses (Refs & Annos)

## **M.G.L.A. 53 § 48**

### **§ 48. Nomination papers; certificates of nomination; filing; political party membership; term limits**

[Currentness](#)

Nomination papers of candidates to be voted on at presidential primaries except candidates for state, ward and town committees, shall be filed with the state secretary on or before the first Friday in January preceding the day of the primaries.

Nomination papers of candidates for election to state, ward and town committees at presidential primaries shall be filed with the state secretary on or before the third Tuesday in November of the year preceding said presidential primaries.

All certificates of nomination and nomination papers of candidates for the office of state representative, state senator, executive council, or county office shall be filed with the state secretary on or before the last Tuesday in May of the year in which a state election is to be held. Certificates of nomination or nomination papers for the office of senator in congress, representative in congress, governor, lieutenant governor, attorney general, treasurer and receiver general, state auditor and state secretary, shall be filed on or before the first Tuesday in June of the year in which a state election is to be held. In the case of primaries before special elections, such nomination papers shall be filed on or before the fifth Tuesday preceding the day of the primaries. The state secretary shall forthwith issue to the candidate or other person filing such nomination papers a certificate acknowledging the time and date of the receipt thereof.

There shall not be printed on the ballot at the state primary the name of any person as a candidate for nomination for any office to be filled by all the voters of the commonwealth, or for representative in congress, governor's councillor, senator in the general court, representative in the general court, district attorney, clerk of court, register of probate and insolvency, register of deeds, county commissioner, sheriff, or county treasurer, unless a certificate from the registrars of voters of the city or town wherein such person is a registered voter, certifying that he has been enrolled as a member of the political party whose nomination he seeks throughout the ninety days prior to the last day herein provided for filing nomination papers with the state secretary, is filed with the state secretary on or before such filing deadline. Said registrars shall issue such certificate, signed by a majority thereof, forthwith upon request of any such candidate so enrolled or of his authorized representative. Said registrars of voters shall issue such certificate to any person seeking the nomination of a political party, who is a newly registered voter of that city or town enrolled in that political party and who has not been an enrolled member of another political party during the year preceding the last day for filing nomination papers with the state secretary. No such certificate shall be issued to any person who is a candidate for nomination for any such office, if such person has been an enrolled member of another political party during the year prior to the last day for filing nomination papers with the state secretary as provided by this section.

There shall not be printed on the ballot at the state primary or state election the name of any person as a candidate for nomination or election for any office to be filled by all the voters of the commonwealth, or for representative in congress, governor's councillor, senator in the general court or representative in the general court, if said person: (a) is a candidate for the office of Governor, Lieutenant Governor, Secretary, Treasurer, Auditor or Attorney General who, by the end of the then current term of office will have served, or but for resignation would have served, for two consecutive terms in that office within the eleven year period immediately preceding the end of the then current term of office; (b) is a candidate for the office of governor's councillor, senator in the general court, representative in the general court, or representative in congress from Massachusetts who, by the end of the then current term of office will have served, or but for resignation would have served, four consecutive terms in that office within the nine year period immediately preceding the end of the then current term of office; or (c) is a candidate for the office of United States Senator from Massachusetts who, by the end of the then current term of office will have served, or but for resignation would have served, two consecutive terms in that office within the seventeen year period immediately preceding the end of the then current term of

office. For the purpose of this section, (i) any person elected or appointed to the office of governor, lieutenant governor, secretary, treasurer, auditor, attorney general, representative in the general court, senator in the general court, representative in congress or United States Senator from Massachusetts who serves more than one-half of a term in that office, shall be deemed to have served an entire term in that office, and (ii) any person serving in one of the foregoing offices as of January 15, 1995 shall be deemed to be serving his first term in that office.

# SENATE . . . . . No. 2632

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## The Commonwealth of Massachusetts

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

SENATE, April 13, 2020.

The committee on Senate Rules to whom was referred the Senate Bill relative to election ballots (Senate, No. 416), - reported, in part, a "Bill relative to nomination signatures" (Senate, No. 2632).

For the committee,  
Joan B. Lovely

# SENATE . . . . . No. 2632

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## The Commonwealth of Massachusetts

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

An Act relative to nomination signatures.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to ensure forthwith that the commonwealth's democratic processes remain fair, honest and orderly while ensuring that candidates show a significant modicum of support in the communities that they seek to represent, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1           Notwithstanding chapter 53 of the General Laws or any other general or special law to  
2           the contrary, nomination papers for candidates for an office to be filled at the 2020 state election  
3           or for nomination at a state primary in 2020 shall be signed in the aggregate by not less than:

4           (i) for United States senator in congress, 5,000 voters;

5           (ii) for representative in congress, 1,000 voters; and

6           (iii) for governor's councillor and county offices, 500 voters; provided, however, that in  
7           the counties of Nantucket and Dukes county, nomination papers for county offices shall be  
8           signed by 25 voters as required under said chapter 53.

9           Nothing in this act shall change any other filing requirement under said chapter 53.

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

OMARI FAULKNER FOR VIRGINIA,  
OMARI FAULKNER,

Plaintiffs,

v.

VIRGINIA DEPARTMENT OF ELECTIONS,  
VIRGNIS STATE BOARD OF ELECTIONS,  
ROBERT H. BRINK,  
JOHN O'BANNON,  
JAMILAH D. LECRUISE,  
CHRISTOPHER E. PIPER,  
JESSICA BOWMAN,  
THE REPUBLICAN PARTY OF VIRGINIA  
JACK R. WILSON

Defendants.

Case No.: CL 20-1456

### ORDER

On March 25, 2020, the parties appeared, represented by Counsel via telephone conference, on Plaintiff's Emergency Motion for Preliminary Injunction. The Republican Party of Virginia and the Commonwealth Defendants have taken no position on the relief sought in the preliminary injunction. However, Gade for Virginia, Inc. filed a Motion for Intervention, which was granted, and they also filed a response opposing the relief sought in the preliminary injunction.

In Virginia, in order for a Court to grant a preliminary injunction, the party seeking the injunction must establish they would "suffer irreparable harm without the injunction, and that the party has no adequate remedy at al." *May v. R.A. Yancey Lumber Corp.*, 297 Va. 1, 17-18 (2019). Beyond this showing, "granting or denying a temporary injunction is a discretionary act arising from the court's equitable powers." *Id.* Accordingly, courts across the Commonwealth have applied a balancing test similar to that articulated federally in *Winters v. Nat'l Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Namely, courts evaluate (1) the likelihood of success on the merits,

(2) the likelihood of irreparable harm, (3) the balance of the equities, and (4) the public interest in issuing the injunction.

In evaluating the likelihood of success on the merits to this as-applied challenge to Va. Code § 24.2-521(1), we must consider the burden placed on the Plaintiff by the statute. “The right to vote is a ‘precious’ and ‘fundamental’ right.” *Florida Democratic Party v. Scott*, 215 F.Supp.3d 1250, 1256 (2016). Additionally, the “freedom to associate with others for the common advancement of political beliefs and ideas is a form of ‘orderly group activity’ protected by the First and Fourteenth Amendments. The right to associate with the political party of one’s choice is integral part of this basic constitutional freedom.” *Kusper v. Pontikes*, 414 U.S. 51, 56-57 (1973). However, because the regulation of the time, place, and manner of elections is vested with the states, a “more flexible standard” is required when evaluating those regulations. *See Burdick v. Taskushi*, 504 U.S. 428, 434 (1992). Specifically, “courts considering a challenge to state election laws ‘must weigh the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the *precise interests put forward by the State* as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff’s rights.’” *Florida Democratic Party*, 215 F.Supp.3d at 1256 (quoting *Burdick*, 504 U.S. at 434). As a preliminary matter, there has been no “precise interest[] put forward by the State” in this case. *Id.*

In normal circumstances, a signature requirement in order for an individual to be placed on the ballot is a light burden. *See New York State Board of Elections v. Lopez Torres*, 552 U.S. 196 (2008); *see also Norman v. Reed*, 502 U.S. 279 (1992). However, the circumstances as they exist in the Commonwealth of Virginia and across the United States are not normal right now. On March 12, 2020, Governor Northman declared a state of emergency for the Commonwealth pursuant to Va. Code § 44-146.13 *et seq.* in response to the continued spread of COVID-19. Executive Order Number Fifty-One (Northam) (2020). This declaration was clarified by guidance issued on March 17, 2020 which prohibited the non-essential gathering of more than ten people in any one location at any time. Press Release, Office of the Governor, Governor Northam Announces New Measures to Combat COVID-19 and Support Impacted Virginians (March 17, 2020). Under these circumstances, and as applied to the Plaintiff, and necessarily to all other Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia, the burden imposed by Va. Code

§ 24.2-521(1) is significant, as it precludes them from freely associating at the highest level with the political party of their choice.

Therefore, at this time, the regulation imposed by Va. Code § 24.2-521(1) is subject to strict scrutiny in order to satisfy the constitutional analysis. Meaning that the “regulation must be narrowly drawn to advance a state interest of compelling importance.” *Norman*, 502 U.S. at 289. In their Response to the Plaintiffs’ Emergency Motion for Preliminary Injunction, the Commonwealth articulates *no precise interest* supporting the application of this regulation in this circumstance. In fact, they neither consent nor object to the relief requested by the Plaintiff. Therefore, the Court has nothing to weigh against “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendment.” *See Florida Democratic Party*, 215 F.Supp.3d at 1256 (quoting *Burdick*, 504 U.S. at 434). Even were the Court to evaluate an interest in promoting the just and fair administration of primary elections, or providing “equal access to all citizens” as the Intervenor suggests, and assuming those interests are compelling, the regulation is not narrowly tailored to advance those interests as it does not provide for emergency circumstances, like those that currently exist.

Accordingly, the Court hereby **FINDS** that the regulation in Va. Code § 24.2-521(1) as it applies to the Plaintiff, and necessarily to all other Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia under these circumstances fails constitutional analysis under strict scrutiny. Thus, the Plaintiff has a considerable likelihood of success on the merits.

Further, this Court **FINDS** that there is a likelihood of irreparable harm to Plaintiff’s constitutional rights if his name were omitted from the ballot because of the application of Va. Code § 24.2-521(1). Further, Plaintiff would be limited in his ability to engage in political dialogue or debate at the elevated level in which he seeks to engage in such discussion. Additionally, as the Commonwealth has not articulated any interest in support of the application of Va. Code § 24.2-521(1) to Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia under these circumstances, and Plaintiff has articulated a significant interest in Va. Code § 24.2-521(1) not being applied to Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia under these circumstances, the Court **FINDS** that the balance of equities tips in favor of the Plaintiff. Furthermore, the Court **FINDS** that reasonable and educated debate among all candidates for office advances the political conversation, promoting the public interest as it does so.



Therefore, the Court **FINDS** that Plaintiff has established a likelihood of success on the merits, there is no other adequate remedy available at law, and the equities tip in favor of the Plaintiff's Emergency Motion for Preliminary Injunction. Thus, the Court **GRANTS** the Emergency Motion for Preliminary Injunction. Specifically, Plaintiff has requested the Defendants allow his qualification for the Republican Primary ballot for U.S. Senate in the Commonwealth with no fewer than a total of 3,500 valid signatures with no fewer than 100 signatures in each and every congressional district. While the Court is not qualified to articulate the number of signatures that should be required in order for an individual to appear on a ballot, the Plaintiff has articulated the above figures and the Commonwealth has not objected to those figures. Therefore, the Court accepts those numbers and thereby **ORDERS** that Defendants allow the qualification of Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia with no fewer than 3,500 valid signatures and no fewer than 100 signatures in each and every congressional district.


This Order applies to the Plaintiff, and all Republican candidates for the 2020 primary election ballot for U.S. Senate in Virginia because the burden of the statute's eligibility requirements are equally injurious to Plaintiff and all other Republican candidates for the 2020 primary election, and the State Board of Elections is tasked with aiding local election boards and registrars in obtaining "uniformity in their practices and proceedings." Va. Code § 24.2-103. The Commonwealth did not object in their pleading or at oral argument to the broader application of the Court's ruling to all other Republican candidates. However, while the interest of maintaining such uniformity in ballot access procedures is an important interest, neither the Democratic Party, nor any other party holding a 2020 primary election, was noticed or served with the Verified Complaint or any other pleadings herein. Accordingly, the interests of those parties have not been adequately represented before the Court. Thus, the Court must limit its ruling to the Plaintiff and other Republican candidates for the 2020 primary election as those are the only individual's whose interests are before the Court.

The Plaintiff's Motion for Attorneys' Fees is **CONTINUED** pending further submissions by Counsel.

Pursuant to Rule 1:13 of the Supreme Court of Virginia, the Court dispenses with the parties' endorsement of this Order. The Court **NOTES** the objections of the Intervening Party.

The Clerk is directed to forward a certified copy of this Order to the parties.

It is so **ORDERED**.  
ENTER: 3 / 25 / 2020



W. Reilly Marchant, Judge

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

NO. 18-cv-

18-0810C

WILLIAM FRANCIS GALVIN, as he is  
SECRETARY OF THE COMMONWEALTH,

Plaintiff,

v.

Towns of ACUSHNET, ATHOL, BARRE,  
BELLINGHAM, BLACKSTONE,  
FAIRHAVEN, FREETOWN, LAKEVILLE,  
MAYNARD, MANCHESTER-BY-THE-SEA,  
MILLVILLE, NORFOLK, NORWOOD,  
PLAINVILLE, PROVINCETOWN, REHOBOTH,  
SEEKONK, SHIRLEY, SHREWSBURY,  
SOUTHAMPTON, TOPSFIELD, WARREN,  
WEST BROOKFIELD, WESTFORD,  
WRENTHAM, and others,

Defendants.

*Advised that all representatives  
of all 351 cities and towns in  
the Commonwealth have been  
apprised of this motion and  
its requested relief, and there  
has been no objection  
from any city or  
town,*

### ~~Proposed~~ ORDER

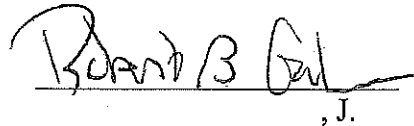
The Court, after hearing and based on the Secretary's Verified Complaint and the representations of the parties, finds that (1) an actual controversy has arisen between the parties regarding the defendant Towns' election officials' authority and duty with respect to local election-related deadlines; and (2) injunctive relief is necessary in order to prevent irreparable harm, including infringement on the voting rights of voters in the defendant Towns, disruption of local governmental processes, and waste of municipal resources. The Court ~~therefore~~ directs that ~~judgment~~ be entered as follows:

*Order of Preliminary Injunction ✓*

1. It is hereby declared that an actual controversy has arisen among the parties regarding the anticipated impossibility of compliance with state laws that impose local election deadlines and that such controversy requires immediate <sup>Preliminary Injunction</sup> ~~resolution~~ to protect the rights of voters in the affected towns. *See Libertarian Ass'n of Mass. v. Sec'y of the Commonwealth*, 462 Mass. 538, 560-561 (2012) (considering burden of election-related laws on political candidates and, consequently, on voters).
2. It is hereby ordered that:
  - a. In the Towns of Acushnet, Athol, Barre, Blackstone, Fairhaven, Freetown, Lakeville, Manchester-by-the-Sea, Millville, Norwood, Plainville, Rehoboth, Seekonk, Wrentham, and Provincetown, any other town in the Commonwealth with a deadline to register to vote of 8:00 pm on Tuesday, March 13, 2018, that deadline is hereby <sup>enlarged</sup> ~~postponed~~ to 8:00 pm on Wednesday, March 14, 2018.
  - b. In the Towns of Bellingham, Maynard, Norfolk, Shirley, Shrewsbury, Southampton, Warren, and West Brookfield, any other town in the Commonwealth with a deadline for submission of nomination papers of 5:00 pm on Tuesday, March 13, 2018, that deadline is hereby <sup>enlarged</sup> ~~postponed~~ to 5:00 p.m. on Wednesday, March 14, 2018.
  - c. In the Town of Topsfield any other town in the Commonwealth with a deadline for candidates to obtain nomination papers of 5:00 pm on

Tuesday, March 13, 2018, that deadline is hereby <sup>enlarged</sup> postponed to 5:00 pm on  
Wednesday, March 14, 2018.

- d. The plaintiff, Secretary of the Commonwealth, shall publicize this Order  
forthwith to all local election officials in the Commonwealth through the  
broadcast email list maintained by the Secretary for such purposes.

  
J.

Associate Justice  
Superior Court

Date: March 12, 2018

3 For good cause shown, and in accordance with  
Mass. R. Civ. P. 65.1, no security shall be required in connection  
with the issuance of this Order.

IN hand  
03.13.17  
sd  
AAG  
Cmy

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
NO. 17-cv-

17-0781 A

WILLIAM FRANCIS GALVIN, as he is  
SECRETARY OF THE COMMONWEALTH,

Plaintiff,

v.

The TOWN of NORTH READING, the TOWN  
of FREETOWN, the TOWN of SOUTHAMPTON,  
and Any Town With a Municipal Election Deadline on  
March 14 or March 15, 2017,

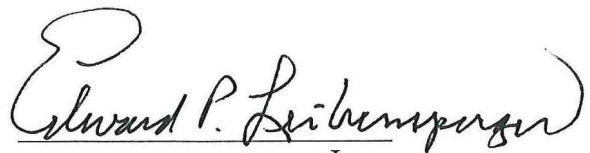
Defendants.

  
[PROPOSED] ORDER

The Court, after hearing and based on the Secretary's Verified Complaint and the representations of the parties, finds that (1) an actual controversy has arisen between the parties regarding the defendant Towns' election officials' authority and duty with respect to local election-related deadlines; and (2) injunctive relief is necessary in order to prevent irreparable harm, including infringement on the voting rights of voters in the defendant Towns, disruption of local governmental processes, and waste of municipal resources. The Court therefore directs that an *injunctive* judgment be entered declaring and ordering as follows:

- a. In the Town of North Reading and any other town with a deadline for submission of nomination papers of 5:00 p.m. on Tuesday, March 14, 2017, that deadline is hereby postponed to 5:00 p.m. on Thursday, March 16, 2017.

- b. In the Town of Freetown and any other town with a deadline to register to vote of 8:00 pm on Tuesday, March 14, 2017, that deadline is hereby postponed to 8:00 p.m. on Thursday, March 16, 2017.
- c. In any town with a deadline to register to vote of 8:00 pm on Wednesday, March 15, 2017, that deadline is hereby postponed to 8:00 p.m. on Thursday, March 16, 2017.
- d. In any town with a deadline to file an objection or withdrawal of 5:00 p.m. on Tuesday, March 14, 2017, that deadline is hereby postponed to 5:00 p.m. on Thursday, March 16, 2017.
- e. In any town with a deadline to file an objection or withdrawal of 5:00 p.m. on Wednesday, March 15, 2017, that deadline is hereby postponed to 5:00 p.m. on Thursday, March 16, 2017.
- f. In any town with a deadline for candidates to obtain nomination papers of 5:00 p.m. on Tuesday, March 14, 2017, that deadline is hereby postponed to 5:00 p.m. on Thursday, March 16, 2017.
- g. In the Town of Southampton and any other town with a caucus scheduled for Tuesday, March 14, 2017, such caucuses are hereby ordered postponed until Thursday, March 16, 2017.
- h. The plaintiff, Secretary of the Commonwealth, shall publicize this Order forthwith to all local election officials in the Commonwealth through the broadcast email list maintained by the Secretary for such purposes.

  
J.

Associate Justice  
Superior Court

Date: March 13, 2017

2:55 P.M.