

950 CMR 49.00: CONFIDENTIAL VOTER REGISTRATION

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49.01: Scope

950 CMR 49.00 sets forth the procedures for implementing voter registration procedures for qualified confidential voters as set forth in M.G.L. c. 51, §§ 4, 21 and 44 as amended by St. 1998, c. 87.

49.02: Purpose

St. 1998, c. 87 amends M.G.L. c. 51, §§ 4, 21, and 44. The purpose of 950 CMR 49.00 is to insure that the name and residence of those persons who provide the registrars with a court order granting protection, evidence of residence in a protective shelter, or an affidavit signed by the chief of police or his designee permitting certain information to be withheld from the public under M.G. L. c. 265, § 24C, shall not appear on the street list or on the annual register and shall not be disclosed to any person. Furthermore, the voter registration affidavit, as required by M.G.L. c. 51, § 44, of any person listed above shall not be a public record.

49.03: Definitions

For the purpose of 950 C.M.R. 49.00 *et seq.* the following words shall, unless the context otherwise indicates, have the following meanings:

Secretary means the Secretary of the Commonwealth.

Registrar means registrar, assistant registrar, clerk, assistant clerk, or boards having similar duties.

Court Order means a certified copy of a court order.

Shelter means any refuge, shelter, safe home, institution or center designated for the purpose of providing residential placement for persons who are in crisis because they have suffered or are at a substantial risk of suffering serious physical or emotional injury as a result of abuse, neglect, or abandonment.

Certificate of Confidential Registration means a certificate issued by the local registrars to a person who has qualified as a confidential voter.

49.04: Overview

Registrars, assistant registrars, or boards having similar duties under any special or general law, shall not place on the street list or annual register or disclose to any person the name and residence of a voter providing the registrars with a copy of a court order granting protection, evidence of residence in a protective shelter, or an affidavit signed by a chief of police or his designee that the voter is entitled to have certain information withheld from the public under M.G.L. c. 265, § 24C. The affidavit of voter registration of any person providing the registrars with a copy of a court order granting protection, evidence of residence in a protective shelter, or an affidavit signed by the chief of police or his designee that the voter is entitled to have certain information withheld under M.G.L. c. 265, § 24C, shall not be a public record.

49.05: Court Order Granting Protection

A voter with a court order granting protection must present the registrar with the order in order to qualify for confidential voter registration. The registrar must then maintain a copy of that order. The copy of the order in the possession of the registrar shall not be a public record. 60 days after the date the court order expires, unless proof that the court order has been extended is provided by the voter, the name and residence of the voter shall become a public record and shall be placed on the street list and the annual register as required by M.G.L. c. 51, §§ 4, 37 and 58. The court order and any proof that the order has been extended shall remain confidential and shall not become a public record.

49.06: Evidence of Residency in a Shelter

A voter must provide a letter to the registrar from the director of the shelter stating that the voter is a resident in order to qualify for confidential registration. The confidential voter must then annually (within one year and 60 days from the previous letter) provide a letter from the director of the shelter in order for his or her registration to remain confidential. The letter from the director shall not be a public record. Should the voter choose to allow his or her confidential registration to expire by failing to provide evidence of residency in a shelter, the voter's name only becomes a public record. The address of the shelter does not become a public record at that time or any other. Under no circumstances shall the address of a shelter be disclosed to any person.

49.07: Affidavit of Police Chief or his Designee

A voter must provide an affidavit from the police chief, or next in command as his designee, stating he or she is entitled to have certain information withheld from the public pursuant to M.G.L. c. 265, § 24C, in order to qualify for confidential voter registration. The form of the affidavit obtained from the police chief or his designee shall be substantially as follows:

I, (Chief or designee), (title), certify that (name of person) of (address of person) is entitled to have certain information withheld from the public under M.G.L. c. 265, § 24C.

Signed under the pains and penalties of perjury.

Name
Title

Date

This affidavit shall not be a public record. The voter registration of a person who qualifies for confidential voter registration because they are entitled to have certain information withheld from the public under M.G.L. c. 265, § 24C, shall remain confidential indefinitely. Provided, however, that if the confidential voter signs a statement in the presence of the registrar that the voter no longer wants such information withheld, the voter's name and address shall become a public record. However, if the voter's address of record has been or is a shelter, the shelter's address shall never become a public record.

49.08: Certificate of Confidential Registration

(1) Issuance of Confidential Voter Number and Certificate. Once the person has provided either a court order granting protection, evidence of residence in a protective shelter, or an affidavit from the chief of police or his designee that the person is entitled to have certain information withheld from the public, the registrars shall provide the person with a confidential voter number and later, with a certificate of confidential registration bearing that number. The certificate shall serve as proof that the person is a legally registered voter. Neither the name nor residence of a person who has provided the registrars with such proof shall appear on the voting list. Instead, the certificate number only will appear at the end of the appropriate voting list used at the polls.

(2) Mailing of Certificate. 28 days prior to any election or primary, the registrar shall send any person who is qualified for confidential registration one copy of such certificate for use at the upcoming election.

(3) Voting at the Office of the Registrars or by Absentee Ballot. Nothing in 950 CMR 49.08 shall prevent such persons from personally appearing to vote at the office of the registrars or from voting by absentee ballot if legally qualified to do so.

49.09: Form of Certificate

The certificate of confidential registration must contain the signatures of a majority of the board of registrars (a facsimile stamp may be used). Where applicable, the town seal shall also be affixed to the certificate. The form of the certificate should be substantially as follows:

CONFIDENTIAL REGISTRATION

Name of City or Town	Valid only for: <u>Election Date</u>
Registration number	
Polling Location	
(Seal of Town) (if applicable)	<u>Signatures of Registrars</u>
	Name
	Name
	Name

This certificate must be brought with you to the polling location identified above when you go to vote.

NOTE TO CERTIFICATE HOLDER:

Please be aware that your confidential voter registration may expire if certain conditions are not met.

If you have received confidential registration because:

- you have a court order granting protection, it will expire 60 days from the date when the court order expires, unless you provide the registrar with proof that the court order has been extended;
- you are a resident in a shelter, it will expire one year and 60 days from the date on the shelter director’s letter confirming residency, unless you provide the registrar with a new letter from the director of the shelter.

WARNING TO ELECTION OFFICERS: The name and address of this confidential voter are not a public record and should not be announced even if you recognize this person. A primary or election officer who makes any statement or gives any information in regard to a confidential registration certificate shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than one year. M.G.L. c. 56, § 14.

49.10: Registrar’s Affirmation

The registrar, upon determination that the proof provided by the voter qualifies him or her for confidential registration, must complete a form of affirmation. The form of affirmation should be substantially as follows:

49.10: continued

CERTIFICATE OF AFFIRMATION

City or Town

I, name of registrar, do solemnly affirm, that the proof provided to me, state which evidence you have received, qualifies voter number _____ as a confidential voter. The proof provided to me complies with M.G.L. c. 51, § 51A, all other applicable statutes, and with 950 C.M.R. 49.00.

Accordingly, I hereby certify that the individual whose name and address correspond to confidential voter number _____ is a legally qualified, registered voter.

Name
Position

Date

49.11: Receipt and Copy of 950 C.M.R. 49.00

Upon completion of the Registrar’s Affirmation, the registrar shall issue a receipt to the voter confirming that the voter has qualified as a confidential voter. The registrar will also provide the individual a copy of 950 C.M.R. 49.00. The receipt shall be substantially as follows:

CONFIDENTIAL VOTER REGISTRATION RECEIPT

City or Town

Date

You have provided the registrar with proof which qualifies you as a confidential voter. You have been assigned confidential voter number _____. You will be sent a certificate of Confidential Registration prior to the next election. Please be aware that you must bring the certificate of Confidential Registration with you to the polls in order for you to vote.

Registrar’s Signature

NOTE TO CERTIFICATE HOLDER:

Please be aware that your confidential voter registration may expire if certain conditions are not met.

If you have received confidential registration because:

- you have a court order granting protection, it will expire 60 days from the date when the court order expires, unless you provide the registrar with proof that the court order has been extended;
- you are a resident in a shelter, it will expire one year and 60 days from the date on the shelter director’s letter confirming residency, unless you provide the registrar with a new letter from the director of the shelter.

49.12: Records

All records relating to confidential voter registration must be maintained in a separate file labeled “Confidential Voter Registration – Not a Public Record.”

49.13: At the Polls

(1) Appearance at the Polls. When a confidential voter appears at the polls with a certificate issued from the registrar, that person shall not be required to give their name or address. The name and address of the confidential voter are not public record and should not be announced even if the election official recognizes the voter.

49.13: continued

(2) Voting Procedure: Confidential Voter Number on Voting List. The voter will present their certificate of confidential registration to the election officer at the check-in. The election officer will look at the end of the active and inactive voting lists to find the number that corresponds to the certificate. If such number is found on the voting list, the election officer shall check it and shall admit the voter and provide such voter with a ballot. For those systems for which there is no check-out, the election officer shall retain the certificate. For those systems which utilize a check-out, when the voter has completed voting, the certificate must be presented to the exit checker, and attached to the voting list. The certificate shall not be a public record.

(3) Voting Procedure: Confidential Voter Number Not on Voting List. If the voter has presented a certificate for which no corresponding number is located on the active or inactive voting list, the voter should be permitted to vote using an escrow ballot, and the certificate of confidential registration should be enclosed in the ballot envelope. Or in the alternative, the voter may proceed, with his or her confidential voter certificate, to the registrar's office in order to determine whether a listing error has been made. If it has been determined that a listing error has occurred, the registrars should issue an absentee ballot to the voter, who shall mark it and enclose it in an absentee ballot envelope, together with the certificate of confidential registration. The registrar should then mark on the envelope "Listing Error" and as soon as practicable shall transmit the envelope to the proper polling place where it should be counted as if the voter had appeared personally and the certificate should be should attached to the voting list.

49.14: Central Registry of Voters

The name and residence of any person in 950 CMR 49.14 shall not be entered into the Central Registry of Voters.

49.15: Absentee Voting

(1) Procedure for Sending Absentee Ballots. A duly registered, confidential voter, who qualifies to vote by absentee ballot, may do so. The confidential voter's application for an absentee ballot must be retained in the registrar's confidential voter file and is not a public record. The registrar should complete the outer envelope with the voter's confidential voter registration number. If the application is received prior to the twenty-eighth day before the primary or election, the registrar should enclose the certificate of confidential registration with the absentee ballot, along with a letter directing the voter to enclose the certificate with the ballot. If the application is received after the 28th day, the registrar should have already forwarded the certificate of confidential registration to the voter, however, the registrar should include a letter directing the voter to enclose the certificate with the ballot.

(2) Procedure for Entering the Voter's Confidential Registration Number on List Absentee Voters. The name and address of confidential voter shall not be entered on the list of those requesting absentee ballots. Instead, the voter's confidential voter registration number should be placed on the list of those requesting absentee ballots and the letters AV should be placed next to their confidential voter registration number at the end of the appropriate voting list.

49.16: Challenges

A person challenging a confidential voter registration on the grounds that it is illegal or incorrect must proceed to superior court under M.G.L. c. 56, § 59. Given the special circumstances of confidential registration, a hearing pursuant to M.G.L. c. 51, §§ 48 and 49 cannot be held.

49.17: Recount

Although the burden of proving that a challenged voter's ballot should not be counted is usually on the candidate or individual challenging the voter, the special circumstances of confidential voters necessarily alters this burden. Therefore, when a confidential voter is challenged, the registrar must provide the affirmation described in 950 C.M.R. 49.10. If a candidate or individual challenging the confidential voter is dissatisfied with the registrar's decision to permit the confidential voter's ballot to be counted, that individual may pursue that challenge in superior court.

REGULATORY AUTHORITY

950 CMR 49.00: M.G.L. c. 54, § 37.