SENATE DOCKET, NO. 1255 FILED ON: 1/20/2011

SENATE . . . . . No. 278

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to assist families care for elders..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	☐ *[District]* ☐
Alice Hanlon Peisch	*14th Norfolk*
Susan C. Fargo	☐ *[District]* ☐
James B. Eldridge	☐ *[District]* ☐
Patricia D. Jehlen	☐ *[District]* ☐
Sonia Chang-Diaz	☐ *[District]* ☐

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SENATE . . . . . No. 278

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 278) of Mark C. Montigny, Alice Hanlon Peisch, Susan C. Fargo, James B. Eldridge and other members of the General Court for legislation to assist families care for elders. Elder Affairs.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *59* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act to assist families care for elders..

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

SECTION 1. Section 28 of Chapter 118E of the Massachusetts General Laws shall be amended by adding at the end of said section the following:-

Payment for services pursuant to a contract between family members to provide personal care or managerial services shall be considered a legally and reasonably enforceable fair market value transaction if the contract meets the following criteria:

(1) The agreement indicates the type, frequency and duration of the services being provided to the applicant or member and the amount of consideration being paid to the caregiver;

(2) The personal care services must enable the applicant or member to avoid or delay placement in a nursing facility or facilitate the return of an applicant or member from a nursing home to the community, as determined by a licensed medical professional or a licensed social worker;

(3) Payment for services is commensurate with a reasonable wage scale, based on the fair market value of the actual job performed and the qualifications of the caregiver;

(4) A lump sum payment by the applicant or member for services to be provided in the future, which is calculated based upon the applicant's or member's life

17 expectancy, shall be considered an ascertainable fair market value transaction, provided that the
18 contract requires the return of any prepaid monies to the applicant or member or his estate if the
19 caregiver becomes unable to fulfill his/her duties under the contract or if the applicant or member
20 dies before his/her calculated life expectancy.

21 The department shall promulgate regulations governing the implementation
22 of this section.

23 "Applicant" or "member" shall include the legal representative of the
24 applicant or member.

25 "Managerial services" shall include the acquisition, coordination and
26 monitoring of medical, financial, accounting, home maintenance and legal services to benefit the
27 applicant or member.