

# SENATE . . . . . No. 988

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act requiring health care employers to develop and implement programs to prevent workplace violence.

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

1           SECTION 1. Chapter 149 of the General Laws is hereby amended by inserting after  
2           section 129D, the following new section:-

3           Section 129E. (a) As used in this section, the following words shall have the following  
4           meanings:-

5           “Health care employer”, any individual, partnership, association, corporation or, trust or  
6           any person or group of persons employing five or more employees.

7           “Employee”, an individual employed by a health care facility; including any hospital,  
8           clinic, convalescent or nursing home, charitable home for the aged, community health agency, or  
9           other provider of health care services licensed, or subject to licensing by, or operated by the  
10          department of public health; any state hospital operated by the department; any facility as  
11          defined in section three of chapter one hundred and eleven B; any private, county or municipal  
12          facility, department or unit which is licensed or subject to licensing by the department of mental  
13          health pursuant to section nineteen of chapter nineteen, or by the department of mental

retardation pursuant to section fifteen of chapter nineteen B; any facility as defined in section one of chapter one hundred and twenty-three; the Soldiers' Home in Holyoke, the Soldiers' Home in Chelsea; or any facility as set forth in section one of chapter nineteen or section one of chapter nineteen B.

(b) Each health care employer shall annually perform a risk assessment, in cooperation with the employees of the health care employer and any labor organization or organizations representing the employees, all factors, which may put any of the employees at risk of workplace assaults and homicide. The factors shall include, but not be limited to: working in public settings; guarding or maintaining property or possessions; working in high-crime areas; working late night or early morning hours; working alone or in small numbers; uncontrolled public access to the workplace; working in public areas where people are in crisis; working in areas where a patient or resident may exhibit violent behavior; working in areas with known security problems and working with a staffing pattern insufficient to address foreseeable risk factors.

(c) Based on the findings of the risk assessment, the health care employer shall develop and implement a program to minimize the danger of workplace violence to employees, which shall include appropriate employee training and a system for the ongoing reporting and monitoring of incidents and situations involving violence or the risk of violence. Employee training shall include education regarding reports to the appropriate public safety official(s), body(s) or agency(s) and process necessary for the filing of criminal charges, in addition to all employer program policies. The employer program shall be described in a written violence prevention plan. The plan shall be made available to each employee and provided to an employee upon request and shall be provided to any labor organization or organizations representing any of the employees. The plan shall include: a list of the factors, which may endanger and are present

with respect to each employee; a description of the methods that the health care employer will use to alleviate hazards associated with each factor, including, but not limited to, employee training and any appropriate changes in job design, staffing, security, equipment or facilities; and a description of the reporting and monitoring system.

(d) Each health care employer shall designate a senior manager responsible for the development and support of an in-house crisis response team for employee-victim(s) of workplace violence. Said team shall implement an assaulted staff action program that includes, but is not limited to, group crisis interventions, individual crisis counseling, staff victims' support groups, employee victims' family crisis intervention, peer-help and professional referrals.

(e) The Commissioner of Labor shall adopt rules and regulations necessary to implement the purposes of this act. The rules and regulations shall include such guidelines as the commissioner deems appropriate regarding workplace violence prevention programs required pursuant to this act, and related reporting and monitoring systems and employee training.

(f) Any health care employer who violates any rule, regulation or requirement made by the department under authority hereof shall be punished by a fine of not more than two thousand dollars for each offense. The department or its representative or any person aggrieved, any interested party or any officer of any labor union or association, whether incorporated or otherwise, may file a written complaint with the district court in the jurisdiction of which the violation occurs and shall promptly notify the attorney general in writing of such complaint. The attorney general, upon determination that there is a violation of any workplace standard relative to the protection of the occupational health and safety of employees or of any standard of

59 requirement of licensure, may order any work site to be closed by way of the issuance of a cease  
60 and desist order enforceable in the appropriate courts of the commonwealth.

61 (g) No employee shall be penalized by a health care employer in any way as a result of  
62 such employee's filing of a complaint or otherwise providing notice to the department in regard  
63 to the occupational health and safety of such employee or their fellow employees exposed to  
64 workplace violence risk factors.