

**SENATE . . . . . No. 1237**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*James E. Timilty*

*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 adoption of the accompanying bill:

An Act requiring health care employers to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James E. Timilty</i>	
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Daniel A. Wolf</i>	

**SENATE . . . . . No. 1237**

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By Mr. Timilty, petition (accompanied by bill, Senate, No. 1237) of James E. Timilty, Sal N. DiDomenico, Michael D. Brady and Daniel A. Wolf for legislation to require health care employers to develop and implement programs to prevent workplace violence. Public Safety and Homeland Security.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 988 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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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  
14 retardation pursuant to section fifteen of chapter nineteen B; any facility as defined in section  
15 one of chapter one hundred and twenty-three; the Soldiers' Home in Holyoke, the Soldiers' Home  
16 in Chelsea; or any facility as set forth in section one of chapter nineteen or section one of chapter  
17 nineteen B.

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

27 (c) Based on the findings of the risk assessment, the health care employer shall develop  
28 and implement a program to minimize the danger of workplace violence to employees, which  
29 shall include appropriate employee training and a system for the ongoing reporting and  
30 monitoring of incidents and situations involving violence or the risk of violence. Employee  
31 training shall include education regarding reports to the appropriate public safety official(s),

32 body(s) or agency(s) and process necessary for the filing of criminal charges, in addition to all  
33 employer program policies. The employer program shall be described in a written violence  
34 prevention plan. The plan shall be made available to each employee and provided to an employee  
35 upon request and shall be provided to any labor organization or organizations representing any of  
36 the employees. The plan shall include: a list of the factors, which may endanger and are present  
37 with respect to each employee; a description of the methods that the health care employer will  
38 use to alleviate hazards associated with each factor, including, but not limited to, employee  
39 training and any appropriate changes in job design, staffing, security, equipment or facilities; and  
40 a description of the reporting and monitoring system.

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

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

51 (f) Any health care employer who violates any rule, regulation or requirement made by  
52 the department under authority hereof shall be punished by a fine of not more than two thousand  
53 dollars for each offense. The department or its representative or any person aggrieved, any

54 interested party or any officer of any labor union or association, whether incorporated or  
55 otherwise, may file a written complaint with the district court in the jurisdiction of which the  
56 violation occurs and shall promptly notify the attorney general in writing of such complaint. The  
57 attorney general, upon determination that there is a violation of any workplace standard relative  
58 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.