

SENATE No. 1187

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>Bristol and Norfolk</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

SENATE No. 1187

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1187) of James E. Timilty, Sarah K. Peake, Sal N. DiDomenico, Michael O. Moore and other members of the General Court for legislation to require health care employers to develop and implement programs to prevent workplace violence. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1237 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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, as appearing in the 2010 Official Edition,
2 is hereby amended by inserting after 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 “Employee”, an individual employed by a health care employer as defined in this section.

6 “Health care employer”, any individual, partnership, association, corporation or, trust or
7 any person or group of persons operating a health care facility as defined in this section and
8 employing five or more employees.

9 “Health care facility”, an individual, partnership, association, corporation or trust or any
10 person or group of persons that employs health care providers, including any hospital, clinic,
11 convalescent or nursing home, charitable home for the aged, community health agency or other
12 provider of health care services licensed, or subject to licensing by, or operated by the
13 department of public health; any state hospital operated by the department; any facility as

defined in section three of chapter one hundred and eleven B; any private, county or municipal facility, department or unit which is licensed or subject to licensing by the department of mental health pursuant to section nineteen of chapter nineteen, or by the department of developmental services 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, in addition to all employer training program policies, methods of reporting to appropriate public safety officials, bodies or agencies and processes necessary for the filing of criminal charges. Each health care employer shall develop a written violence prevention plan setting forth the employer's workplace violence prevention plan. The health care employer shall make the plan available to each employee and provide the plan to any of its employees upon their request. The health care employer shall provide the plan to any labor organization or organizations representing any of its employees. The plan shall include: (i) a list of those factors and circumstances that may pose a danger to employees; (ii) 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 (iii) 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-victims 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

52 commissioner deems appropriate regarding workplace violence prevention programs required
53 pursuant to this act, and related reporting and monitoring systems and employee training.

54 (f) Any health care employer who violates any rule, regulation or requirement made by
55 the department under authority hereof shall be punished by a fine of not more than two thousand
56 dollars for each offense. The department or its representative or any person aggrieved, any
57 interested party or any officer of any labor union or association, whether incorporated or
58 otherwise, may file a written complaint with the district court in the jurisdiction of which the
59 violation occurs and shall promptly notify the attorney general in writing of such complaint. The
60 attorney general, upon determination that there is a violation of any workplace standard relative
61 to the protection of the occupational health and safety of employees or of any standard of
62 requirement of licensure, may order any work site to be closed by way of the issuance of a cease
63 and desist order enforceable in the appropriate courts of the commonwealth.

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