

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

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Jason M. Lewis, (BY REQUEST)***

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*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 to reduce conflict-of-interest in child abuse investigations.**

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PETITION OF:

NAME:

*Caroline Mallary*

DISTRICT/ADDRESS:

*625 Main St #9 in Reading, 01867*

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

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By Mr. Lewis (by request), a petition (accompanied by bill, Senate, No. ) of Caroline Mallary for legislation to reduce conflict-of-interest in child abuse investigations. Mental Health and Substance Abuse.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
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An Act to reduce conflict-of-interest in child abuse investigations.

*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. Section 1 of Chapter 123 of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by inserting the following new definitions:-

3 "Mental health facility", any group home, therapeutic boarding school, therapeutic camp,  
4 or any facility which provides significant mental health services, or employs or has a regular  
5 business relationship with a significant number of mental health professionals, or employs or has  
6 a regular business relationship with a prescriber of psychiatric medication who prescribes  
7 psychiatric medication to residents.

8 "Significant mental health services", mental health services beyond those provided in a  
9 standard public school.

10 "Significant number of mental health professionals", a number of mental health  
11 professionals beyond that which could reasonably be employed by a standard public school of  
12 comparable capacity to the facility.

13 SECTION 2. Chapter 123 of the General Laws, as appearing in the 2014 Official Edition,  
14 is hereby amended by adding after Section 36B the following new section:-

15 Section 37. Any restraint of a child which results in the death or serious injury of the  
16 child shall be investigated by police or another criminal law enforcement agency. Such  
17 investigation shall not consist solely or primarily of investigation by Department of Children and  
18 Families, or any department or agency which does not have primary responsibility for criminal  
19 investigations.

20 Any restraint of a child which results in the death or serious injury of the child occurring  
21 at a mental health facility shall not consist solely of self-reporting by the facility or its licensing  
22 agency. Such investigation shall not require the approval or advanced notification of the party  
23 which injured the child or any employer or licensing agency of the party which injured the child.

24 Any restraint which injures a child may be considered criminal battery if the person or  
25 persons performing the restraint did not reasonably act in response to imminent physical danger  
26 to the child, or if the restraint was initiated by a person or persons who subjected the child to  
27 excessive force or criminal touching immediately prior to the restraint. Any investigation of  
28 such restraint must investigate the possibility that the child was acting in self-defense.

29 When possible, such investigation must include no less than one interview with the child  
30 and no less than one interview with a family member of the child. If the restraint occurred at a  
31 mental health facility, no less than one interview with the child shall be conducted by an  
32 impartial entity with no financial, legal, or licensor relationship to any mental health facility  
33 which permits the physical restraining of children. The child shall be informed of the purpose of  
34 the interview in a timely and appropriate manner, and the interviewer(s) shall make a good-faith

35 effort not to mislead or unduly agitate the child. Such interview may not be conducted by or  
36 witnessed by any associate of the facility which performed the restraint.