

**HOUSE . . . . . No. 1007**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Denise C. Garlick***

*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:	DATE ADDED:
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>1/18/2017</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/30/2017</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>José F. Tosado</i>	<i>9th Hampden</i>	
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	
<i>Jack Lewis</i>	<i>7th Middlesex</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	
<i>Michael S. Day</i>	<i>31st Middlesex</i>	
<i>Natalie Higgins</i>	<i>4th Worcester</i>	
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	

<i>James J. Dwyer</i>	<i>30th Middlesex</i>	
<i>Mathew Muratore</i>	<i>1st Plymouth</i>	
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	
<i>Diana DiZoglio</i>	<i>14th Essex</i>	
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	
<i>James R. Miceli</i>	<i>19th Middlesex</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>Hannah Kane</i>	<i>11th Worcester</i>	
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	
<i>Michael J. Finn</i>	<i>6th Hampden</i>	
<i>Thomas P. Walsh</i>	<i>12th Essex</i>	
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	
<i>Gerard Cassidy</i>	<i>9th Plymouth</i>	<i>2/1/2017</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	
<i>Brian Murray</i>	<i>10th Worcester</i>	
<i>John J. Mahoney</i>	<i>13th Worcester</i>	
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	

<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>

**HOUSE . . . . . No. 1007**

By Ms. Garlick of Needham, a petition (accompanied by bill, House, No. 1007) of Denise C. Garlick and others for legislation to provide for annual perform at risk assessments by health care employers and labor organizations. Labor and Workforce Development.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninetieth General Court  
(2017-2018)**

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 2016 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  
14 defined in section three of chapter one hundred and eleven B; any private, county or municipal  
15 facility, department or unit which is licensed or subject to licensing by the department of mental  
16 health pursuant to section nineteen of chapter nineteen, or by the department of developmental  
17 services pursuant to section fifteen of chapter nineteen B; any facility as defined in section one of  
18 chapter one hundred and twenty-three; the Soldiers' Home in Holyoke, the Soldiers' Home in  
19 Chelsea; or any facility as set forth in section one of chapter nineteen or section one of chapter  
20 nineteen B.

21 “Workplace Violence”, any act or threat of physical violence, harassment, intimidation,  
22 or other threatening disruptive behavior that occurs at the work site ranging from threats and  
23 verbal abuse to physical assaults and homicide.

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

33 (c) Based on the findings of the risk assessment, the health care employer shall develop  
34 and implement a program to minimize the danger of workplace violence to employees, which  
35 shall include appropriate employee training, and a system for the ongoing reporting and  
36 monitoring of incidents and situations involving violence or the risk of violence. Employee  
37 training shall include, in addition to all employer training program policies, methods of reporting  
38 to appropriate public safety officials, bodies or agencies and processes necessary for the filing of  
39 criminal charges. Each health care employer shall develop a written violence prevention plan  
40 setting forth the employer's workplace violence prevention plan. The health care employer shall  
41 make the plan available to each employee and provide the plan to any of its employees upon  
42 their request. The health care employer shall provide the plan to any labor organization or  
43 organizations representing any of its employees. The plan shall include: (i) a list of those factors  
44 and circumstances that may pose a danger to employees; (ii) a description of the methods that the  
45 health care employer will use to alleviate hazards associated with each factor; including, but not  
46 limited to, employee training and any appropriate changes in job design, staffing, security,  
47 equipment or facilities; (iii) a post-incident debriefing process with affected staff; and (iv) a  
48 description of the reporting and monitoring system.

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

54 (e) The commissioner of labor shall adopt rules and regulations necessary to implement  
55 the purposes of this act. The rules and regulations shall include such guidelines as the

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

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

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

72 SECTION 2. Section 13I of Chapter 265 of the General Laws as appearing in the 2016  
73 Official Edition, is hereby amended by inserting at the end the following section:-

74 Section XX: Any emergency medical technician, ambulance operator, ambulance  
75 attendant or a health care provider as defined in section 1 of chapter 111, who is the victim of  
76 assault or assault and battery in the line of duty shall be given the option of providing either the  
77 individual's home address or the address of the health care facility where the assault or assault

78 and battery occurred. In instances where the address of the health care facility is used, the health  
79 care facility shall ensure that the individual receives any documents pertaining to the assault or  
80 assault and battery within 24 hours of receipt by the health care facility. The health care facility  
81 shall demonstrate that it has provided any and all documentation by obtaining a signature from  
82 the individual acknowledging receipt.

83 SECTION 3. Each health care employer shall report every six months all incidents of  
84 assault and assault and battery under Section 13I of Chapter 265 of the General Laws, as  
85 appearing in the 2016 Official Edition, to the department, the department of public health and the  
86 office of the district attorney. These reports shall be made publicly available within 90 days of  
87 receipt by these departments and the office of the district attorney.

88 SECTION 4. Chapter 265 of the General Laws as so appearing, is hereby amended after  
89 Section 13I by inserting at the end the following sections:-

90 Section XX. (a) For purposes of this section, the following words shall have the  
91 following meanings, unless the context clearly indicates otherwise:

92 “Employee”, an individual employed by a health care employer as defined in this section.

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

96 “Health care facility”, an individual, partnership, association, corporation or trust or any  
97 person or group of persons that employs health care providers, including any hospital, clinic,  
98 convalescent or nursing home, charitable home for the aged, community health agency or other



99 provider of health care services licensed, or subject to licensing by, or operated by the  
100 department of public health; any state hospital operated by the department; any facility as  
101 defined in section three of chapter one hundred and eleven B; any private, county or municipal  
102 facility, department or unit which is licensed or subject to licensing by the department of mental  
103 health pursuant to section nineteen of chapter nineteen, or by the department of developmental  
104 services pursuant to section fifteen of chapter nineteen B; any facility as defined in section one of  
105 chapter one hundred and twenty-three; the Soldiers' Home in Holyoke, the Soldiers' Home in  
106 Chelsea; or any facility as set forth in section one of chapter nineteen or section one of chapter  
107 nineteen B.

108 (b) A health care employer shall permit an employee to take up to 7 days of leave from  
109 work in any 12 month period if: (i) the employee is a victim of assault or assault and battery  
110 which occurred in the line of duty; (ii) the employee is using the leave from work to: seek or  
111 obtain victim services or legal assistance; obtain a protective order from a court; appear in court  
112 or before a grand jury; meet with a district attorney or other law enforcement official or to  
113 address other issues directly related to the assault and battery.

114 (c) The leave taken under this section shall be paid.

115 (d) An employee seeking leave from work under this section shall provide appropriate  
116 advance notice of the leave to the employer as required by the employer's leave policy.

117 (e) A health care employer may require an employee to provide documentation  
118 evidencing that the employee has been a victim of assault or assault and battery sustained in the  
119 line of duty and that the leave taken is consistent with the conditions of clauses (i) and (ii).

120 (f) If an unscheduled absence occurs, the health care employer shall not take any negative  
121 action against the employee if the employee, within 30 days from the unauthorized absence or  
122 within 30 days from the last unauthorized absence in the instance of consecutive days of  
123 unauthorized absences, provides documentation that the unscheduled absence meets the criteria  
124 of clauses (i) and (ii).

125 (g) An employee shall provide such documentation to the health care employer within a  
126 reasonable period after the health care employer requests documentation relative to the  
127 employee's absence.

128 (h) All information related to the employee's leave under this section shall be kept  
129 confidential by the health care employer and shall not be disclosed, except to the extent that  
130 disclosure is: (i) requested or consented to, in writing, by the employee; (ii) ordered to be  
131 released by a court of competent jurisdiction; (iii) otherwise required by applicable federal or  
132 state law; (iv) required in the course of an investigation authorized by law enforcement,  
133 including, but not limited to, an investigation by the attorney general; or (v) necessary to protect  
134 the safety of the employee or others employed at the workplace.

135 (i) An employee seeking leave under this section shall not have to exhaust all annual  
136 leave, vacation leave, personal leave or sick leave available to the employee, prior to requesting  
137 or taking leave under this section.

138 (j) No health care employer shall coerce, interfere with, restrain or deny the exercise of,  
139 or any attempt to exercise, any rights provided under this section or to make leave requested or  
140 taken hereunder contingent upon whether or not the victim maintains contact with the alleged  
141 abuser.

142 (k) No health care employer shall discharge or in any other manner discriminate against  
143 an employee for exercising the employee's rights under this section. The taking of leave under  
144 this section shall not result in the loss of any employment benefit accrued prior to the date on  
145 which the leave taken under this section commenced. Upon the employee's return from such  
146 leave, the employee shall be entitled to restoration to the employee's original job or to an  
147 equivalent position.

148 (l) The attorney general shall enforce this section and may seek injunctive relief or other  
149 equitable relief to enforce this section.

150 (m) Health care employers shall notify each employee of the rights and responsibilities  
151 provided by this section including those related to notification requirements and confidentiality.

152 (n) This section shall not be construed to exempt an employer from complying with  
153 chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the rights  
154 of any employee under said chapter 258B, said section 14B of chapter 268 or any other general  
155 or special law.