HOUSE DOCKET, NO. 3206 FILED ON: 1/20/2017

HOUSE . . . . . No. 3030

The Commonwealth of Massachusetts

PRESENTED BY:

Paul Brodeur

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 define abuse and neglect of a child.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Paul Brodeur	*32nd Middlesex*	*1/20/2017*
District Attorney Marian Ryan	*15 Commonwealth Avenue, Woburn, MA, 01801*	*1/20/2017*
Marjorie C. Decker	*25th Middlesex*	*1/20/2017*
Barbara A. L'Italien	*Second Essex and Middlesex*	*1/20/2017*
Chris Walsh	*6th Middlesex*	*1/20/2017*
James B. Eldridge	*Middlesex and Worcester*	*1/20/2017*
Bruce E. Tarr	*First Essex and Middlesex*	*1/20/2017*

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HOUSE . . . . . No. 3030

By Mr. Brodeur of Melrose, a petition (accompanied by bill, House, No. 3030) of Paul Brodeur and others for legislation to further define abuse and neglect of children. The Judiciary.

The Commonwealth of Massachusetts

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

An Act to define abuse and neglect of a child.

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

Section1. Section 21 of Chapter 119 of the General Laws, as appearing in the 2014 official edition, is hereby amended by inserting after the words "or neglect" in line 5 the following definition:

"Abuse", both physical and sexual abuse. Any individual, not limited to a caregiver, may commit abuse.

Section 21 of Chapter 119, as so appearing, is hereby further amended by inserting after the words "child advocate" in line 74 the following definition:

"Neglect", the failure by a caregiver to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care, including malnutrition. Neglect may be deliberate or through negligence or inability, but it cannot be due solely to inadequate economic resources or due

solely to the existence of a handicapping condition. Actual injury, whether physical or emotional, is not required.

Section 21 of Chapter 119, as so appearing, is hereby further amended by inserting after the words “transitional assistance” in lines 77- 78 the following definition:

“Physical abuse”, a non-accidental act that causes or creates a substantial risk of physical injury to a child, including knowingly or recklessly engaging in behavior that was dangerous to the child and resulted in injury. Intent to cause injury to the child is not required.

Section 21 of Chapter 119, as so appearing, is hereby further amended by inserting after the words “mental faculty” in line 87 the following definition:

“Sexual abuse”, (1) A non-accidental sexual act with a child that causes harm or substantial risk of harm to the child’s health or welfare. In determining whether the act causes such harm or substantial risk of harm, the following factors are to be considered: whether the act was committed by force or threat of bodily injury; whether the child was incapable of consent due to factors such as intoxication, sleep, or intellectual disability; any age disparity between the child and the alleged perpetrator; the child’s cognitive, emotional, psychological, and social maturity; any power imbalance between the child and the alleged perpetrator; and the presence of any coercive factors; (2) Sexual contact between a caregiver and a child for whom the caregiver is responsible; and

(3) Sexual contact between a child and any individual, not limited to a caregiver, by verbal or written communication, except that a communication (a) that is reasonably intended to provide information and direction for a child’s education and physical and emotional well-being;

or (b) that is consensual, is between peers, and shall not involve coercion or exploitation, does not constitute sexual abuse.