

**SENATE . . . . . No. 64**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Michael O. Moore***

*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 establish a registry of caretakers found to have substantiated abuse against persons with intellectual disability or developmental disability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>1/23/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/30/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/31/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/1/2017</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/2/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>10/17/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/2/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/3/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>2/3/2017</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/3/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/3/2017</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>2/15/2017</i>

<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>3/23/2017</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>5/5/2017</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>	<i>5/5/2017</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>5/5/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>7/31/2017</i>

**SENATE . . . . . No. 64**

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By Mr. Moore, a petition (accompanied by bill, Senate, No. 64) of Michael O. Moore, Linda Dean Campbell, Jack Lewis, Danielle W. Gregoire and other members of the General Court for legislation to establish a registry of caretakers found to have substantiated abuse against persons with intellectual disability or developmental disability. Children, Families and Persons with Disabilities.

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**The Commonwealth of Massachusetts**

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

An Act to establish a registry of caretakers found to have substantiated abuse against persons with intellectual disability or developmental disability.

*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 nineteen B of the general laws is hereby amended by inserting at  
2 the end thereof the following new section:-

3           (1) Definitions

4           “Abuse” shall have the same meaning as “abuse” as defined by the disabled persons  
5 protection commission pursuant to chapter nineteen C of the general laws.

6           “Caretaker” means any person employed by a provider licensed by the department  
7 pursuant to sections fifteen and fifteen A of chapter nineteen B of the general laws, that provides  
8 services or supports to a person with an intellectual or developmental disability.

9           “Commissioner” means the commissioner of the department of developmental services.

10 “Department” means the department of developmental services.

11 (2) Creation of a Disability Abuse Registry

12 The department shall, subject to appropriation, establish and maintain a computerized  
13 registry of caretakers against whom a substantiated finding of abuse of a person with an  
14 intellectual or developmental disability has been issued by the disabled persons protection  
15 commission in accordance with chapter nineteen C of the general laws, or a substantiated finding  
16 of financial exploitation of a person with an intellectual or developmental disability has been  
17 issued by the department, to be known as the Massachusetts disability abuse registry.

18 The department shall, in accordance with section two of chapter thirty A of the general  
19 laws and subject to appropriation, adopt regulations consistent with this section. Said regulations  
20 shall include procedures and standards for the placement of a caretaker’s name on the  
21 Massachusetts disability abuse registry, and the process for the notification to the caretaker of the  
22 right to appeal the placement of his or her name on the Massachusetts disability abuse registry.  
23 The department’s rules and regulations shall provide for a hearing within the meaning of  
24 subsection one of section one of chapter thirty A of the general laws.

25 (3) Registration process

26 After a substantiated finding of abuse of a person with an intellectual disability or  
27 developmental disability by a caretaker or a finding of financial exploitation of a person with an  
28 intellectual or developmental disability by a caretaker, and after notice and a reasonable  
29 opportunity for a hearing for the caretaker to rebut such findings, the department shall determine  
30 whether a caretaker’s name shall be entered on the Massachusetts disability abuse registry.

31           The department shall enter the caretaker name with an asterisk (referencing appeal) upon  
32 the Massachusetts disability abuse registry until the appeal period is expired or subject to the  
33 resolution of an appeal.

34           (4) Requirement to check registry

35           Prior to hiring an individual seeking employment, a provider shall determine whether the  
36 applicant’s name appears on the Massachusetts disability abuse registry.

37           The department shall notify a provider that currently employs a caretaker upon the entry  
38 of a caretaker’s name on the Massachusetts disability abuse registry.

39           The department shall maintain and disclose any statement made by the caretaker  
40 disputing the caretaker’s inclusion on the Massachusetts disability abuse registry.

41           (5) Prohibition on hiring persons on the Massachusetts disability abuse registry

42           No service provider shall hire or knowingly employ an individual whose name appears  
43 on the Massachusetts disability abuse registry, or, if an alternative sanction was imposed, that  
44 individual may not be hired or employed until the terms of such sanction have been fulfilled.

45           (6) Retaliation for reporting abuse

46           The rights and protections of section eleven of chapter nineteen C of the general laws  
47 shall apply.

48           (7) Access to the registry

49           The information maintained in the Massachusetts disability abuse registry shall not be  
50 considered to be a “public record” under clause twenty-six of section seven of chapter four of the

51 general laws. The department shall keep confidential and may only disseminate information  
52 contained in the Massachusetts disability abuse registry to a provider for consideration of current  
53 employee or an applicant for employment to provide direct care to persons with intellectual  
54 disability or developmental disability.

55 SECTION 2. Section five of chapter nineteen C of the general laws, is hereby amended  
56 by inserting at the end thereof, the following new subsection:

57 (6) Immediately upon issuance of an investigation report substantiating abuse of a person  
58 with an intellectual disability or developmental disability, the commission shall submit all  
59 relevant information to the Massachusetts disability abuse registry.

60 SECTION 3. The Department shall amend its present regulations to include the  
61 following in Section 2 (a) of 115 CMR 9.08, the following new subsection:

62 6. guardian, parent or sibling (excluding any person complained of or thought to be  
63 responsible for the matter alleged) shall be offered a joint interview.