

SENATE No. 64

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> |

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| <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

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.

The Commonwealth of Massachusetts

**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.