

HOUSE No. 1359

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:
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	<i>1/18/2019</i>
<i>Marian T. Ryan, Middlesex District Attorney</i>		<i>2/1/2019</i>

HOUSE No. 1359

By Mr. Brodeur of Melrose, a petition (accompanied by bill, House, No. 1359) of Paul Brodeur and Marian T. Ryan (Middlesex District Attorney) for legislation to further define abuse and neglect of children. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3030 OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

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:

1 Section1. Section 21 of Chapter 119 of the General Laws, as appearing in the 2016
2 official edition, is hereby amended by inserting after the words “or neglect” in line 5 the
3 following definition:

4 “Abuse”, both physical and sexual abuse. Any individual, not limited to a caregiver, may
5 commit abuse.

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

8 “Neglect”, the failure by a caregiver to take those actions necessary to provide a child
9 with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability

10 and growth, or other essential care, including malnutrition. Neglect may be deliberate or through
11 negligence or inability, but it cannot be due solely to inadequate economic resources or due
12 solely to the existence of a handicapping condition. Actual injury, whether physical or
13 emotional, is not required.

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

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

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

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

30 (3) Sexual contact between a child and any individual, not limited to a caregiver, by
31 verbal or written communication, except that a communication (a) that is reasonably intended to

- 32 provide information and direction for a child's education and physical and emotional well-being;
- 33 or (b) that is consensual, is between peers, and shall not involve coercion or exploitation, does
- 34 not constitute sexual abuse.