

HOUSE No. 1416

The Commonwealth of Massachusetts

PRESENTED BY:

Denise C. Garlick and Kimberly N. Ferguson

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:
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>David Biele</i>	<i>4th Suffolk</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Peter Capano</i>	<i>11th Essex</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Edward F. Coppingier</i>	<i>10th Suffolk</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>

<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Carlos González</i>	<i>10th Hampden</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>

<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>

<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>

HOUSE No. 1416

By Representatives Garlick of Needham and Ferguson of Holden, a petition (accompanied by bill, House, No. 1416) of Denise C. Garlick, Kimberly N. Ferguson and others relative to providing protections for health care employees who are victims of violence or assault and battery. The Judiciary.

The Commonwealth of Massachusetts

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

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 111 of the General Laws, as appearing in the 2018 Official Edition,
2 is hereby amended by inserting after section 236, the following new section:-

3 Section 237. (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.

8 “Health care facility”, a hospital, licensed under section fifty-one of chapter one hundred
9 and eleven, the teaching hospital of the University of Massachusetts medical school, or any state

10 facility operated, funded, or subject to oversight by the Department of Public Health, the
11 Department of Mental Health or the Department of Developmental Services.

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

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

24 (c) Based on the findings of the risk assessment, the health care employer shall develop
25 and implement a program to minimize the danger of workplace violence to employees, which
26 shall include appropriate employee training, and a system for the ongoing reporting and
27 monitoring of incidents and situations involving violence or the risk of violence. Employee
28 training shall include, in addition to all employer training program policies, methods of reporting
29 to appropriate public safety officials, bodies or agencies and processes necessary for the filing of
30 criminal charges. Each health care employer shall develop a written violence prevention plan
31 setting forth the employer’s workplace violence prevention plan. The health care employer shall

32 make the plan available to each employee and provide the plan to any of its employees upon
33 request. The health care employer shall provide the plan to any labor organization or
34 organizations representing any of its employees. The plan shall include: (i) a list of those factors
35 and circumstances that may pose a danger to employees; (ii) a description of the methods that the
36 health care employer will use to alleviate hazards associated with each factor; including, but not
37 limited to, employee training and any appropriate changes in job design, staffing, security,
38 equipment or facilities; (iii) a post-incident debriefing process with affected staff; and (iv) a
39 description of the reporting and monitoring system.

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

45 (e) The commissioner of public health shall adopt rules and regulations necessary to
46 implement the purposes of this act. The rules and regulations shall include such guidelines as the
47 commissioner deems appropriate regarding workplace violence prevention programs required
48 pursuant to this act, and related reporting and monitoring systems and employee training.

49 (f) Any health care employer who violates any rule, regulation or requirement made by
50 the department under authority hereof shall be punished by a fine of not more than two thousand
51 dollars for each offense. The department or its representative or any person aggrieved, any
52 interested party or any officer of any labor union or association, whether incorporated or
53 otherwise, may file a written complaint with the district court in the jurisdiction of which the

54 violation occurs and shall promptly notify the attorney general in writing of such complaint. The
55 attorney general, upon determination that there is a violation of any workplace standard relative
56 to the protection of the occupational health and safety of employees or of any standard of
57 requirement of licensure, may order any work site to be closed by way of the issuance of a cease
58 and desist order enforceable in the appropriate courts of the commonwealth.

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

63 SECTION 2. Section 13I of Chapter 265 of the General Laws as appearing in the 2018
64 Official Edition, is hereby amended by inserting at the end the following section:-

65 Section XX: Any emergency medical technician, ambulance operator, ambulance
66 attendant or a health care provider as defined in section 1 of chapter 111, who is the victim of
67 assault or assault and battery in the line of duty shall be given the option of providing the address
68 of the health care facility where the assault or assault and battery occurred. In instances where
69 the address of the health care facility is used, the health care facility shall ensure that the
70 individual receives any documents pertaining to the assault or assault and battery within 24 hours
71 of receipt by the health care facility. The health care facility shall demonstrate that it has
72 provided any and all documentation by obtaining a signature from the individual acknowledging
73 receipt.

74 SECTION 3. Each health care employer shall report every six months all incidents of
75 assault and assault and battery under Section 13I of Chapter 265 of the General Laws, as

76 appearing in the 2018 Official Edition, to the department and the office of the district attorney.
77 These reports shall be made publicly available within 90 days of receipt by these departments
78 and the office of the district attorney.

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

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

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

84 “Health care employer”, any individual, partnership, association, corporation or, trust or
85 any person or group of persons operating a health care facility as defined in this section.

86 “Health care facility”, a hospital, licensed under section fifty-one of chapter one hundred
87 and eleven, the teaching hospital of the University of Massachusetts medical school, or any state
88 facility operated, funded, or subject to oversight by the Department of Public Health, the
89 Department of Mental Health or the Department of Developmental Services.

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

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

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

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

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

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

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

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

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

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

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

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

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