

HOUSE No. 1438

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

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 relative to the protection of vulnerable adults from sexual assault committed by mandated reporters, persons in a position of trust and providers of transportation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>District Attorney Marian T. Ryan</i>	<i>Office of the Middlesex District Attorney, 15 Commonwealth Avenue, Woburn MA 01801</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

Hannah Kane

11th Worcester

Lori A. Ehrlich

8th Essex

James K. Hawkins

2nd Bristol

Michelle M. DuBois

10th Plymouth

HOUSE No. 1438

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 1438) of Kate Hogan and others relative to the protection of vulnerable adults from sexual assault committed by mandated reporters, persons in a position of trust and providers of transportation. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to the protection of vulnerable adults from sexual assault committed by mandated reporters, persons in a position of trust and providers of transportation.

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 265 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by adding the following new section 22D:

3 Whoever, being at the time (a) a mandated reporter as defined in section 21 of chapter
4 119, section 1 of chapter 19C, or section 15 of chapter 19A, or (b) a person with supervisory
5 responsibility or disciplinary authority over such vulnerable adult by virtue of his or her legal,
6 professional or occupational status, or (c) in the course of providing transportation, or
7 immediately before or after, as an employee or contracted service provider, has sexual
8 intercourse or unnatural sexual intercourse with, or commits indecent assault and battery upon, a
9 vulnerable adult as defined herein, knowing such person to be a vulnerable adult, shall be
10 punished. Whoever commits sexual intercourse (nature or unnatural) with a vulnerable adult,
11 shall be punished by imprisonment in the state prison for not more than twenty years; and
12 whoever commits a second or subsequent such offense shall be punished by imprisonment in the

13 state prison for life, or for any term of years. Whoever commits an indecent assault and battery
14 on a vulnerable adult, shall be punished by imprisonment in the state prison for not more than ten
15 years, or by imprisonment in the house of correction for not more than two and one-half years;
16 and whoever commits a second or subsequent such offense shall be punished by imprisonment in
17 the state prison for not more than twenty years. A prosecution commenced under either section
18 of this paragraph shall not be placed on file nor continued without a finding.

19 Consent of the vulnerable adult to such sexual intercourse or indecent assault and battery
20 shall not constitute a defense or excuse to this offense.

21 A vulnerable adult is a person fourteen years of age or older who at the time of the
22 offense (1) is admitted to a mental health facility or to a community based or residential facility,
23 or (2) is receiving community based services through the Department of Developmental Services
24 or the Department of Mental Health or the Massachusetts Rehabilitation Commission, or (3) is a
25 resident of a long-term care facility.

26 SECTION 2 Section 178C of Chapter 6 of the General Laws, as amended by St. 2018,
27 chapter 219, section 1, is hereby amended by inserting into the definition of “Sex offense” after
28 the words “aggravated rape under section 39 of chapter 277;” the following: “sexual assault of
29 vulnerable adults under section 22D of chapter 265;”