

SENATE No. 1093

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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 facilities to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/30/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>1/31/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/31/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>2/7/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>4/21/2020</i>

SENATE No. 1093

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 1093) of Jason M. Lewis, Thomas M. Stanley, Kay Khan, Cindy F. Friedman and other members of the General Court for legislation to require health care facilities to develop and implement programs to prevent workplace violence. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4418 OF 2017-2018.]

The Commonwealth of Massachusetts

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In the One Hundred and Ninety-First General Court
(2019-2020)
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An Act requiring health care facilities 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 2016 Official Edition,
2 is hereby amended by inserting after section 237, 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 facility as defined in this section.

6 “Health care facility”, a hospital as defined under Section 51 of Chapter 111 of the
7 Massachusetts General Laws.

8 “Workplace Violence”, any attempted or actual harmful or unpermitted touching of
9 another person that results in injury and occurs on a work site.

10 (b) Notwithstanding any general or special law to the contrary, within 6 months of the
11 date of enactment, the department shall develop statewide standards for evaluating and
12 addressing known security risks at health care facilities. Such standards shall be based on
13 existing state laws and regulations as well as national accreditation and professional association
14 standards for health care facilities for the purpose of ensuring consistency in the development of
15 and annual review of internal operations preventing known risks. These standards shall include,
16 but not be limited to: working in public settings; guarding or maintaining property or
17 possessions; working in high-crime areas; working

18 late night or early morning hours; working alone or in small numbers; uncontrolled
19 public access to the workplace; working in public areas where people are in crisis; working in
20 areas where patients or residents may exhibit violent behavior; and working in areas with known
21 security problems. In developing such standards, the department shall convene and consult with
22 an advisory committee comprised of health care facilities, including but not limited to,
23 leadership, staff nurses and facility directors. Following development of the statewide standards,
24 each healthcare facility shall be required to provide a summary of its operational policy that
25 complies with the standards and includes a description of: i) the development of security risk
26 identification; ii) engagement with employees on potential risks; iii) evaluation of incidents that
27 have occurred; and iv) periodic reassessments of programs and policies. Such summaries shall be
28 submitted to the department within six months after the advisory committee promulgates its
29 standards, and shall be updated when a health care facility makes a substantive change to its
30 operational policy for security risk assessment.

31 (c) The health care facility shall develop and implement a program to minimize the
32 danger of workplace violence to employees based on the statewide standards developed pursuant
33 to subsection (b), which shall include appropriate employee training and a system for the
34 ongoing reporting and monitoring of incidents and situations involving violence or the risk of
35 violence. Employee training shall include, in addition to all employer training program policies,
36 methods of reporting to appropriate public safety officials, bodies or agencies and processes
37 necessary for the filing of criminal charges. Each health care facility shall develop a written
38 violence prevention plan setting forth the facility's workplace violence prevention plan. The
39 health care facility shall make the plan available on site to each employee and allow any of its
40 employees to review the plan on site upon request. The health care facility shall provide the plan
41 to a labor organization that represents employees at the health care employer.

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

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

51 SECTION 2. Section 13I of Chapter 265 of the General Laws as appearing in the 2016

52 Official Edition, is hereby amended by replacing the entire section with the following
53 language:-

54 Whoever commits an assault or an assault and battery on an emergency medical
55 technician, an ambulance operator, an ambulance attendant or a health care provider as defined
56 in section 1 of chapter 111 of the general laws, while the technician, operator, attendant or
57 provider is in the course of employment at the time of such assault or assault and battery, shall be
58 punished by imprisonment in state prison for not more than five years or imprisonment in a jail
59 or house of correction for not less than 90 days nor more than 2 and one-half years or by a fine of
60 not less than \$500 nor more than \$5,000, or any combination of said fines and imprisonment.

61 Any emergency medical technician, ambulance operator, ambulance attendant or a health
62 care provider as defined in section 1 of chapter 111, who is the victim of assault or assault and
63 battery in the line of duty shall be given the option of providing either the individual's home
64 address, the address of the health care facility where the assault or assault and battery occurred,
65 the address of a labor organization who is representing the employee, if so requested by the
66 employee, or by requesting a judge to impound the individual's home address. In instances
67 where the address of the health care facility or labor organization is used, said facility or labor
68 organization shall ensure that the individual receives any documents pertaining to the assault or
69 assault and battery by the next business day of receipt by said facility or labor organization. The
70 health care facility or labor organization shall demonstrate that it has provided any and all
71 documentation by obtaining an acknowledgement of receipt from the individual.

72 SECTION 3. Each health care facility shall report every six months all incidents of
73 assault and assault and battery under Section 237 of Chapter 111 and Section 13I of Chapter 265

74 of the General Laws, as appearing in the 2016 Official Edition, to the department of public health
75 and the office of the district attorney. The department of public health shall make an annual
76 public report using aggregated

77 statewide data of reported incidents of assault and assault and battery under Section 237
78 of Chapter 111 and Section 13I of Chapter 265.

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 13I 1/2. (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 facility as defined in this section.

84 “Health care facility”, a hospital as defined under Section 51 of Chapter 111 of the
85 Massachusetts General Laws

86 (b) A health care facility shall permit an employee to take unpaid leave from work if: (i)
87 the employee is a victim of assault or assault and battery which occurred in the line of duty; and
88 (ii) the employee is using the leave from work to: seek or obtain victim services or legal
89 assistance; obtain a protective order from a court; appear in court or before a grand jury; or meet
90 with a district attorney.

91 (c) An employee seeking leave from work under this section shall provide appropriate
92 advance notice of the leave to the health care facility as required by the facility's leave policy.

93 (d) A health care facility may require an employee to provide documentation evidencing
94 that the employee has been a victim of assault or assault and battery sustained in the line of duty
95 and that the leave taken is consistent with the conditions of clauses (i) and (ii).

96 (e) If an unscheduled absence occurs, the health care facility shall not take any negative
97 action against the employee if the employee, within 30 days from the unauthorized absence or
98 within 30 days from the last unauthorized absence in the instance of consecutive days of
99 unauthorized absences, provides documentation that the unscheduled absence meets the criteria
100 of clauses (i) and (ii).

101 (f) An employee shall provide such documentation to the health care facility within a
102 reasonable period after the health care facility requests documentation relative to the employee's
103 absence.

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

111 (h) An employee seeking leave under this section shall not have to exhaust all annual
112 leave, vacation leave, personal leave or sick leave available to the employee, prior to requesting
113 or taking leave under this section.

114 (i) No health care facility shall coerce, interfere with, restrain or deny the exercise of, or
115 any attempt to exercise, any rights provided under this section or to make leave requested or
116 taken hereunder contingent upon whether or not the victim maintains contact with the alleged
117 abuser.

118 (j) No health care facility shall discharge or in any other manner discriminate against an
119 employee for exercising the employee's rights under this section. The taking of leave under this
120 section shall not result in the loss of any employment benefit accrued prior to the date on which
121 the leave taken under this section commenced. Upon the employee's return from such leave, the
122 employee shall be entitled to restoration to the employee's original job or to an equivalent
123 position.

124 (k) The attorney general shall enforce this section and may seek injunctive relief or other
125 equitable relief to enforce this section.

126 (l) Health care facilities shall notify each employee of the rights and responsibilities
127 provided by this section including those related to notification requirements and confidentiality.

128 (m) This section shall not be construed to exempt a health care facility from complying
129 with chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the
130 rights of any employee under said chapter 258B, said section 14B of chapter 268 or any other
131 general or special law.

132 SECTION 5. Notwithstanding any general or special law or rule or regulation to the
133 contrary, within 6 months of the date of enactment, the executive office of health and human
134 services shall coordinate with the executive office of public safety and security to develop
135 regulations that would allow healthcare providers, as defined in section 1 of chapter 111 of the

136 general laws, to be able to access reports on individuals maintained by agencies within each
137 executive office as well as other public safety and law enforcement officials through a secure
138 electronic medical record, health information exchange, or other similar software or information
139 systems connected to healthcare providers for the purposes of: (i) improving ease of access and
140 utilization of such data for treatment and diagnosis;(ii) supporting integration of such data within
141 the electronic health records of a healthcare provider for purposes of treatment of diagnosis; or,
142 (iii) allowing healthcare providers and their vendors to maintain such data for the purposes of
143 compiling and visualizing such data within the electronic health records of a healthcare provider
144 that supports treatment or diagnosis. Such regulations shall further allow the sharing of such
145 information between healthcare providers consistent with federal and state privacy requirements
146 through a secure electronic medical record, health information exchange, or other similar
147 software or information systems.