

SENATE No. 1427

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 healthcare employers to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/24/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>1/25/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/28/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/29/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/29/2019</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>1/30/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/30/2019</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>1/30/2019</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/30/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>1/30/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/31/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/1/2019</i>

<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/1/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>2/1/2019</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>2/1/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/4/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/4/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/4/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/5/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/7/2019</i>

SENATE No. 1427

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1427) of Joan B. Lovely, Michael D. Brady, Walter F. Timilty, Mary S. Keefe and other members of the General Court for legislation to require health care employers to develop and implement programs to prevent workplace violence. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1374 OF 2017-2018.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-First General Court
(2019-2020)**
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An Act requiring healthcare 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 2016 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 healthcare employer as defined in this section.

6 “Healthcare employer”, any individual, partnership, association, corporation, trust or any
7 person or group of persons operating a healthcare facility as defined in this section.

8 “Healthcare 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, or
13 other threatening disruptive behavior that occurs at the work site ranging from threats and verbal
14 abuse to physical assaults and homicide.

15 (b) Each healthcare employer shall annually perform a risk assessment, in cooperation
16 with the employees of the healthcare 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 healthcare 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 healthcare employer shall develop a written violence prevention plan
31 setting forth the employer's workplace violence prevention plan. The healthcare employer shall
32 make the plan available to each employee and provide the plan to any of its employees upon
33 request. The healthcare 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 healthcare 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 healthcare 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 healthcare 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, its representative, any person aggrieved, any interested

52 party or any officer of any labor union or association, whether incorporated or otherwise, may
53 file a written complaint with the district court in the jurisdiction in which the violation occurs
54 and shall promptly notify the attorney general in writing of such complaint. The attorney general,
55 upon determination that there is a violation of any workplace standard relative to the protection
56 of the occupational health and safety of employees or of any standard of requirement of
57 licensure, may order any work site to be closed by way of the issuance of a cease-and-desist
58 order enforceable in the appropriate courts of the commonwealth.

59 (g) No employee shall be penalized by a healthcare 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 2016
64 Official Edition, is hereby amended by inserting at thereof the following paragraph:-

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

73 SECTION 3. Each healthcare employer shall report every six months all incidents of
74 assault and assault and battery under section 13I of chapter 265 of the General Laws, as
75 appearing in the 2016 Official Edition, to the department and the office of the district attorney.
76 These reports shall be made publicly available within 90 days of receipt by these departments
77 and the office of the district attorney.

78 SECTION 4. Chapter 265 of the General Laws is hereby amended by inserting after
79 section 13I the following section:-

80 Section 13I 1/2. (a) For purposes of this section, the following words shall have the
81 following meanings, unless the context clearly indicates otherwise:

82 “Employee”, an individual employed by a healthcare employer as defined in this section.

83 “Healthcare employer”, any individual, partnership, association, corporation or, trust or
84 any person or group of persons operating a healthcare facility as defined in this section.

85 “Healthcare facility”, a hospital, licensed under section fifty-one of chapter one hundred
86 and eleven, the teaching hospital of the University of Massachusetts medical school, or any state
87 facility operated, funded, or subject to oversight by the department of public health, the
88 department of mental health or the department of developmental services.

89 (b) A healthcare employer shall permit an employee to take up to 7 days of leave from
90 work in any 12-month period if: (i) the employee is a victim of assault or assault and battery that
91 occurred in the line of duty; or (ii) the employee is using the leave from work to: seek or obtain
92 victim services or legal assistance; obtain a protective order from a court; appear in court or

93 before a grand jury; meet with a district attorney or other law enforcement official; or address
94 other issues directly related to the assault and battery.

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

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

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

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

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

109 (h) All information related to the employee's leave under this section shall be kept
110 confidential by the healthcare employer and shall not be disclosed, except to the extent that
111 disclosure is: (i) requested or consented to, in writing, by the employee; (ii) ordered to be
112 released by a court of competent jurisdiction; (iii) otherwise required by applicable federal or
113 state law; (iv) required in the course of an investigation authorized by law enforcement,

114 including, but not limited to, an investigation by the attorney general; or (v) necessary to protect
115 the safety of the employee or others employed at the workplace.

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

119 (j) No healthcare employer shall coerce, interfere with, restrain or deny the exercise of, or
120 any attempt to exercise, any rights provided under this section or any leave requested or taken
121 hereunder contingent upon whether the victim maintains contact with the alleged abuser.

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

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

130 (m) Healthcare employers shall notify each employee of the rights and responsibilities
131 provided by this section including those related to notification requirements and confidentiality.

132 (n) This section shall not be construed to exempt an employer from complying with
133 chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the rights

134 of any employee under said chapter 258B, said section 14B of chapter 268 or any other general
135 or special law.