

**SENATE . . . . . No. 686**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Cindy F. Friedman***

*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 protect medically fragile kids.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	<i>1/22/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/24/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/24/2019</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>1/24/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/24/2019</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>1/28/2019</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/29/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/30/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/31/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/1/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/1/2019</i>

<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>2/21/2019</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/27/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>5/20/2019</i>

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By Ms. Friedman, a petition (accompanied by bill, Senate, No. 686) of Cindy F. Friedman, Michael J. Rodrigues, Sean Garballey, Jason M. Lewis and other members of the General Court for legislation to protect medically fragile kids. Health Care Financing.

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**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 to protect medically fragile kids.

*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 12C of the General Laws is hereby amended by adding the  
2 following section:-

3 Section 24. The center, in conjunction with MassHealth, shall prepare a biennial report  
4 related to patients requiring continuous skilled nursing care, as defined in 101 CMR 350.02 and  
5 130 CMR 403.402. The report shall include, but not be limited to: (i) the number of pediatric  
6 patients and the number of adult patients requiring continuous skilled nursing care; (ii) the  
7 average, median and total number of continuous skilled nursing hours authorized by MassHealth  
8 per day, week, month and year for pediatric patients and for adult patients; (iii) the average,  
9 median and total number of authorized continuous skilled nursing hours actually delivered per  
10 day, week, month and year for pediatric patients and for adult patients; (iv) the proportion of  
11 utilization to authorization of service hours in comparison to patient acuity for pediatric patients  
12 and for adult patients; (v) the number of nurses providing continuous skilled nursing care to

13 more than 1 patient at a time and the proportion of utilization to authorization of said patients;  
14 (vi) the number of nurses who contract with MassHealth to provide continuous skilled nursing  
15 care and the number of nurses who provide continuous skilled nursing care through a home  
16 health agency that contracts with MassHealth and whether the total number of nurses providing  
17 such care is sufficient to fill all authorized continuous skilled nursing hours; (vii) the training,  
18 experience and education level of the nurses who contract with MassHealth to provide  
19 continuous skilled nursing care; and (viii) an evaluation of the adequacy of the reimbursement  
20 rates for continuous skilled nursing, as defined in 101 CMR 350.04(2), and a comparison of  
21 those rates between the rate paid to nurses who contract directly with MassHealth to provide  
22 continuous skilled nursing care, the portion of the reimbursement rate paid directly as wages to  
23 nurses providing continuous skilled nursing care through a home health agency that contracts  
24 with MassHealth, and the median wage rate paid to all nurses in the commonwealth.

25 Not later than January 1 of each even-numbered year, the report shall be filed with the  
26 secretary of health and human services, the clerks of the senate and the house of representatives,  
27 the joint committee on health care financing, the joint committee on public health and the senate  
28 and house committees on ways and means. The center shall make the report publicly available on  
29 its website.

30 SECTION 2. Chapter 118E of the General Laws is hereby amended by adding the  
31 following section:-

32 Section 78. (a) Notwithstanding any general or special law to the contrary, and subject to  
33 appropriation, the executive office of health and human services shall increase the budget for

34 continuous skilled nursing care, as defined in 101 CMR 350.02 and 130 CMR 403.402, by an  
35 amount that ensures:

36 (1) At least 55 percent of continuous skilled nursing hours authorized by MassHealth are  
37 filled on or before July 1, 2021;

38 (2) At least 65 percent of continuous skilled nursing hours authorized by MassHealth are  
39 filled on or before July 1, 2022;

40 (3) At least 75 percent of continuous skilled nursing hours authorized by MassHealth are  
41 filled on or before July 1, 2023; and

42 (4) At least 85 percent of continuous skilled nursing hours authorized by MassHealth are  
43 filled on or before July 1, 2024, and shall remain at 85 percent or above thereafter.

44 (b) The executive office of health and human services may require any portion of the  
45 budget increases provided for in this section to be used exclusively to increase the wage payment  
46 rate of nurses providing continuous skilled nursing care.

47 (c) To satisfy the requirements in subsection (a), the executive office of health and human  
48 services shall require MassHealth to submit an annual report no later than January 1 that:

49 (1) demonstrates that MassHealth has not changed its authorization criteria for  
50 continuous skilled nursing services in a way that is more restrictive and results in a reduction in  
51 the amount of authorized hours that would have been authorized previously; and

52 (2) includes the following information from the immediately preceding calendar year: (i)  
53 the number of filled and unfilled continuous skilled nursing hours authorized by MassHealth; (ii)  
54 the number of appeals received by MassHealth for the denial or modification of continuous

55 skilled nursing hours and the number of patients that filed an appeal; (iii) the number of patients  
56 that received a reduction in the amount of authorized continuous skilled nursing hours; and (iv)  
57 the number of authorized continuous skilled nursing hours reduced from the immediately  
58 preceding calendar year, if any.

59 (d) The executive office of health and human services, in conjunction with MassHealth  
60 and after consultation with the Massachusetts Pediatric Nursing Care Campaign, shall adopt  
61 regulations to implement this section.

62 (e) Nothing in this section shall be construed to prohibit filling 85 percent of the  
63 continuous skilled nursing hours authorized by MassHealth prior to July 1, 2024.

64 SECTION 3. Notwithstanding any general or special law to the contrary, the office of  
65 Medicaid shall review the wage payment rates established by home health agencies that provide  
66 continuous skilled nursing care, as defined in 101 CMR 350.02 and 130 CMR 403.402, for the  
67 providers of those services. The office shall provide: (i) an aggregated overview of the wage  
68 payment rates paid by home health agencies to staff or contracted nurses providing continuous  
69 skilled nursing care, including any increases in said wage rates resulting from increases in  
70 Medicaid rates paid to home health agencies for continuous skilled nursing care in state fiscal  
71 years 2017 and 2018; (ii) an aggregated breakdown of said wage rates as applied to the acuity  
72 level of patients receiving continuous skilled nursing care; (iii) an aggregated breakdown of said  
73 wage rates as applied to the licensure level of the providers of continuous skilled nursing care;  
74 (iv) recommendations on criteria to be included in any future reporting by home health agencies  
75 receiving an increase of continuous skilled nursing care rates provided by the office. The office  
76 shall provide this report not later than March 1, 2020 to the clerks of the senate and house of

77 representatives, the joint committee on health care financing and the senate and house  
78 committees on ways and means. Home health agencies providing continuous skilled nursing care  
79 shall provide all information and documentation requested by the office of Medicaid to compile  
80 the required report under this section.

81           SECTION 4. The first report required pursuant to section 24 of chapter 12C of the  
82 General Laws shall be filed on January 1, 2021.