

SENATE No. 871**The Commonwealth of Massachusetts**

PRESENTED BY:

Joanne M. Comerford

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 prohibiting the use of public funds to pay awards, fines or settlements in cases where public officials are found responsible or guilty of sexual harassment or assault.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|------------------------------------|--|------------------|
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | |
| <i>Tram T. Nguyen</i> | <i>18th Essex</i> | <i>1/22/2019</i> |
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i> | <i>1/23/2019</i> |
| <i>Mindy Domb</i> | <i>3rd Hampshire</i> | <i>1/23/2019</i> |
| <i>Bud L. Williams</i> | <i>11th Hampden</i> | <i>1/23/2019</i> |
| <i>David Allen Robertson</i> | <i>19th Middlesex</i> | <i>1/24/2019</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>1/31/2019</i> |
| <i>Tami L. Gouveia</i> | <i>14th Middlesex</i> | <i>1/31/2019</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> | <i>2/1/2019</i> |
| <i>Russell E. Holmes</i> | <i>6th Suffolk</i> | <i>2/1/2019</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> | <i>2/1/2019</i> |
| <i>Natalie M. Blais</i> | <i>1st Franklin</i> | <i>2/1/2019</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> | <i>2/1/2019</i> |
| <i>Paul R. Feeney</i> | <i>Bristol and Norfolk</i> | <i>2/7/2019</i> |
| <i>Cindy F. Friedman</i> | <i>Fourth Middlesex</i> | <i>2/7/2019</i> |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> | <i>4/16/2019</i> |
| <i>José F. Tosado</i> | <i>9th Hampden</i> | <i>1/27/2020</i> |

SENATE No. 871

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 871) of Joanne M. Comerford, Brian M. Ashe, Natalie M. Blais, Mindy Domb and other members of the General Court for legislation to prohibit the use of public funds to pay awards, fines or settlements in cases where public officials are found responsible or guilty of sexual harassment or assault. The Judiciary.

The Commonwealth of Massachusetts

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

An Act prohibiting the use of public funds to pay awards, fines or settlements in cases where public officials are found responsible or guilty of sexual harassment or assault.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to prohibit the use of public funds to pay awards, fines or settlements in cases where public officials are found responsible or guilty of sexual harassment or assault, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 268A of the General Laws are hereby amended by inserting after section 25 the
2 following section:-

3 Section 25A. (a) For the purposes of this section, the following terms shall have the
4 following meanings:

5 "Public entity", means the commonwealth or an agency or authority of the
6 commonwealth or a local unit of government.

7 "Public funds", means

8 (i) funds drawn from the treasury or other fund of the commonwealth, or

9 (ii) funds drawn from revenue collected or imposed by a local unit of government.

10 “Campaign account”, an account established by a candidate for political office as defined
11 in section 19 of chapter 55.

12 "Public official", an individual who holds an elective or appointive office of a public
13 entity.

14 "Sexual harassment", a form of sex discrimination as defined by Title VII of the Civil
15 Rights Act of 1964.

16 “Sexual assault”, a violation or attempt to commit a violation of section 13B, 13B1/2,
17 13B3/4, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or section 24B of chapter 265 or section
18 3 of chapter 272.

19 (b) A public entity shall not make an expenditure of public funds, nor shall a public
20 official make an expenditure from a campaign account, to settle a claim or action resulting from
21 an incident of sexual harassment or sexual assault in which a public official is found guilty,
22 responsible or reaches a settlement in connection with an accusation of sexual harassment or
23 sexual assault, that occurred while the official was serving as a public official.

24 In cases where a public official is found responsible for a payment of an award, fine or
25 settlement in connection with an incident of sexual harassment or sexual assault made pursuant
26 to a decision of a hearing officer or a court in a civil or criminal action or a settlement
27 agreement, the payment shall be made from the personal funds of the public official.

28 (c) Notwithstanding subsection (b), If the public official is found by a decision of a
29 hearing officer or a court to be unable to pay the award or settlement as described in subsection
30 (b), the payment of the claim or settlement may be made by a public entity, provided that the
31 public official shall reimburse the public entity for the amount of the award or settlement for the
32 claim involved.

33 (d) The executive office of administration and finance shall determine the form and
34 timing of any reimbursement under subsection (c), including any withholding of portions of the
35 salary or other payments from a public entity to the public official.