

HOUSE No. 2697

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick Joseph Kearney

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 disability pensions for violent crimes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/17/2021</i>
<i>John Nelson, MA Coalition of Police</i>	<i>P.O. Box 768, Millbury MA 01527</i>	<i>2/17/2021</i>
<i>Larry Calderone, Boston Police Patrolmen's Association</i>	<i>295 Freeport Street, South Boston, MA 02122</i>	<i>2/17/2021</i>
<i>Steven G. Xiarhos</i>	<i>5th Barnstable</i>	<i>2/19/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/25/2021</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>2/25/2021</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/15/2021</i>

HOUSE No. 2697

By Mr. Kearney of Scituate, a petition (accompanied by bill, House, No. 2697) of Patrick Joseph Kearney and others relative to disability pensions for violent crimes committed against certain public employees. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to disability pensions for violent crimes.

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. Section 1 of chapter 32 of the General Laws, as appearing in the 2016
2 Official Addition, is hereby amended by inserting after the word “inclusive”, in line 599, the
3 following definition:-

4 “Violent act injury”, a serious and permanent personal bodily injury sustained as a direct
5 and proximate result of a violent attack upon a person by means of a dangerous weapon,
6 including a firearm, knife, automobile, explosive device or other dangerous weapon, which for
7 the purposes of this section shall be defined as “an item which is designed for the purpose of
8 causing serious injury or death.”

9 SECTION 2. Said chapter 32 is hereby further amended by striking out subsection (1) of
10 section 7 and inserting in place thereof the following subsection:-

11 Section 7. (1) Conditions of Allowance. Any member in service classified in Group 1,
12 Group 2 or Group 4, or any member in service classified in Group 3 to whom the provisions of

13 subdivision (2) of section twenty-six are not applicable, who is unable to perform the essential
14 duties of the member's job and that such inability is likely to be permanent before attaining the
15 maximum age for the member's group by reason of a personal injury or violent act injury
16 sustained or a hazard undergone as a result of, and while in the performance of the member's
17 duties at some definite place and at some definite time on or after the date of becoming a
18 member or prior to such date while any provision of this chapter relating to noncontributory
19 pensions was applicable to the member, without serious and willful misconduct on the member's
20 part, upon the member's written application on a prescribed form filed with the board and the
21 member's respective employer or upon such an application by the head of the member's
22 department after a hearing, if requested, as provided for in subdivision (1) of section sixteen and
23 subject to the conditions set forth in said section and in this section, shall be deemed retired for
24 an accidental disability as of a date which shall be specified in such application and which shall
25 be not less than fifteen days nor more than four months after the filing of such application but in
26 no event later than the maximum age for the member's group. Except as provided for in
27 subdivision (3) of this section, no such retirement shall be allowed unless such injury or violent
28 act injury was sustained or such hazard was undergone within two years prior to the filing of
29 such application or, if occurring earlier, unless written notice thereof was filed with the board by
30 such member or on the member's behalf within ninety days after its occurrence. No retirement
31 under clauses (i) to (iii), inclusive, shall be allowed unless the board, after a review of the
32 evidence it deems appropriate, and after a review by the commission, pursuant to the provisions
33 of section twenty-one, and including in any event on examination by the regional medical panel
34 provided for in subdivision (3) of section six and including a certification of such incapacity by a
35 majority of the physicians on such medical panel, shall find that such member is physically

36 unable to perform the essential duties of the member's job and that such inability is likely to be
37 permanent, and that the member should be so retired. No retirement under clause (iv) shall be
38 allowed unless the board, after a review of the evidence it deems appropriate, and after a review
39 by the commission, pursuant to the provisions of section twenty-one, and including in any event
40 on examination by the regional medical panel provided for in subdivision (3) of section six and
41 including a certification of such incapacity by a majority of the physicians on such medical
42 panel, shall find that such member is physically unable to perform the essential duties of the
43 member's job because of a violent act injury and that such inability is likely to be permanent, and
44 that the member should be so retired. Any member who was injured while a member of a
45 retirement system established in any governmental unit other than that by which the member is
46 presently employed, and who has complied with the provisions of this section as to notice, or
47 whose case falls under paragraph (3), shall file such application with the retirement board of the
48 unit where he is presently employed. Such board shall secure a statement of facts and records,
49 which it shall be the duty of the retirement board of the first governmental unit to furnish, and on
50 which it shall be entitled to make recommendations.

51 Prior to the determination of a retirement under this section, a member shall submit to the
52 retirement board a written statement authorizing release of information from the federal internal
53 revenue service and the department of revenue relative to the annual gross earned income of the
54 member in pursuant to an agreement between the federal internal revenue service, the department
55 of revenue, and the public employee retirement administration commission in accordance with
56 section ninety-one A.

57 SECTION 3. Paragraph (a) of subsection (2) of said section 7 of said chapter 32 is hereby
58 amended by inserting after clause (iii) the following clauses:-

59 (iv) A yearly amount of pension for any firefighter, any call, volunteer, auxiliary,
60 intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve
61 emergency medical services provider who is a member of a police or fire department and who is
62 not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or
63 reserve police officer, any municipal or public emergency medical technician or licensed health
64 care professional who is unable to perform the essential duties of the member's job by reason of
65 a violent act injury, paid monthly, equal to 100 per cent of their regular compensation, including
66 all applicable benefits and stipends, that the member was earning on the date of such violent act
67 injury, as defined in section 1 of this chapter. The annual amount of pension payable to such
68 member shall be equal to the regular rate of compensation which the member would have been
69 paid had the member continued in service at the grade held by the member at the time of their
70 retirement until their death or reaching mandatory retirement age, whichever comes first;
71 provided that, if the member reaches the mandatory retirement age, the member shall be entitled
72 thereafter to 80 per cent of the average annual rate of compensation paid to the member in the
73 previous 12 months, including any cost of living increases, as defined in sections 102 and 103 of
74 this chapter. Upon retirement, the member shall receive a lump sum payment from the applicable
75 retirement board equal to the member's total accumulated retirement deductions. In the event
76 that the member shall predecease their spouse and the member's death is the result of the same
77 violent act injury, the member's spouse shall be entitled to 75 per cent of the member's annual
78 pension, paid monthly, as long as such spouse shall live; provided that, when the member would
79 have reached the mandatory retirement age, the member's spouse shall continue to be entitled to
80 75 per cent of the member's annual pension, including any cost of living increases, as defined in
81 sections 102 and 103 of this chapter, that the member would have received upon reaching the

82 mandatory retirement age; provided, however, that if a beneficiary is eligible for benefits under
83 this section and under option (c) of section 12, the beneficiary shall elect to receive either a
84 benefit under option (c) or a benefit pursuant to this section but shall not be eligible for both
85 benefits. In the event that the member and the member's spouse predecease their children, the
86 member's surviving unmarried children, if any, who are under age 18 or, if over that age and
87 under age 22, are full-time students at an accredited educational institution, or who are over age
88 18 and physically or mentally incapacitated from earning income on the date of such member's
89 retirement, shall be entitled to receive a pension of equal proportion, paid monthly, which shall
90 total 75 per cent of the amount of the pension payable to the member at the time of their death.

91 The words "full-time student" and "accredited educational institutions" shall have the
92 same meaning that they have under clause (iii). When a child no longer meets the qualifications
93 for receipt of a pension allocation under this section, said child's pension allocation shall cease
94 and any remaining qualified children shall continue to receive the same amount each received
95 before any child's allocation ceased. Any member eligible to receive a pension under clause (iv)
96 shall be indemnified for all hospital, medical and other healthcare expenses, not otherwise
97 covered by health insurance, related to treatment of injuries that have been or may be incurred
98 after the date of the member's retirement as a result of the injuries sustained by the member
99 relating to the violent act injury while in the performance of the member's duties.

100 Nothing in this section or any other section of the general laws or regulations shall limit
101 the member's aforementioned retirement benefit or restrict the member from seeking
102 accommodating employment by any entity or agency which is not classified under Groups 1-4,
103 inclusive, of the retirement system.

104 Nothing in this section shall prohibit a member under clause (iv), or such member's
105 eligible

106 spouse or children, from receiving additional retirement benefits not required by this
107 section.

108 (v) Critical Incident Stress Management

109 Any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call,
110 volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a
111 member of a police or fire department and who is not subject to chapter 152, any police
112 officer,

113 any auxiliary, intermittent, special, part-time or reserve police officer, any municipal or
114 public

115 emergency medical technician shall participate in critical incident stress management
116 debriefing

117 following any incident involving exposure to actual or threatened death, serious injury, or
118 sexual

119 violence as defined in the most recent version of the Diagnostic and Statistical Manual of
120 Mental

121 Disorders, or any other incident reasonably warranting a critical incident stress
122 management

123 debriefing, as determined by an emergency service provider certified by the
124 Massachusetts Peer

125 Support Network or International Critical Incident Stress Foundation, Inc.

126 At the discretion of the emergency service provider, or at the request of any member, the
127 member will seek a behavioral health consultation on his or her own time.

128 Anything discussed during the behavioral health consultation shall be kept in
129 confidentiality in the following manner:

130 a. All conversations, records, recordings, or other documents resulting from the
131 behavioral

132 health consultation will be subject to physician-patient privilege and will not be provided
133 to the employer except at the request of the member;

134 b. The employer may contact the behavioral health professional to confirm the date and
135 attendance of the member and credentials of the professional.