

HOUSE No. 748

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Moran

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 create safe environments for home care workers and consumers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	<i>2/5/2021</i>
<i>Kip A. Diggs</i>	<i>2nd Barnstable</i>	<i>2/24/2021</i>
<i>Jacob R. Oliveira</i>	<i>7th Hampden</i>	<i>2/25/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/25/2021</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>2/25/2021</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/25/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/25/2021</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>	<i>2/25/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/26/2021</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>2/26/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/26/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/26/2021</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/26/2021</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>2/26/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>2/26/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/26/2021</i>

<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>2/26/2021</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>2/26/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/26/2021</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>3/1/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/2/2021</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>3/2/2021</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/3/2021</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>3/3/2021</i>
<i>David Biele</i>	<i>4th Suffolk</i>	<i>3/3/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>3/3/2021</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>3/8/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/8/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/10/2021</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>3/15/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/15/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/18/2021</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>3/18/2021</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>3/22/2021</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>	<i>3/22/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/23/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>3/31/2021</i>
<i>Maria Duaiame Robinson</i>	<i>6th Middlesex</i>	<i>4/8/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>4/8/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>9/27/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>9/27/2021</i>

HOUSE No. 748

By Mr. Moran of Boston, a petition (accompanied by bill, House, No. 748) of Michael J. Moran and others for legislation to create safe environments for home care workers and consumers. Elder Affairs.

The Commonwealth of Massachusetts

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

An Act to create safe environments for home care workers and consumers.

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. Home care worker abuse and bullying

2 (a) The following terms, as used in this section, shall, unless the context requires
3 otherwise, have the following meanings:-

4 “Consumer”, means a consumer or client receiving home care services from a home care
5 worker employed by a home care agency or from a personal care attendant.

6 “Home care agency”, an entity or organization, however organized and whether
7 conducted for profit or not for profit, that is owned, operated, maintained or advertised for the
8 purpose of providing home care services in residential settings for compensation, provided,
9 however, that home care agency shall not include an entity operated by either the federal
10 government or the commonwealth providing home care services; an entity that limits its business
11 exclusively to the provision of house cleaning services; an aging service access points or ASAP

12 entity as defined in section 4B of chapter 19A; a hospice program licensed under section 57D of
13 chapter 111; or an adult foster care program regulated under 130 CMR 408.

14 “Home care services”, supportive services provided to an individual in his or her
15 residence to enable that individual to remain in his or her residence safely and comfortably,
16 including, but not limited to, assistance with activities of daily living, homemaker services,
17 housekeeping, personal laundry, personal care and companionship, provided, however, that
18 home care services shall not include hospice services provided by an entity subject to licensure
19 under section 57D of chapter 111, the home health services provided by an entity subject to
20 licensure under section 51K of chapter 111, services provided by a personal care attendant in the
21 commonwealth’s personal care attendant program as defined in 130 CMR 422.000, or services
22 provided under the MassHealth adult foster care program as defined in 101 CMR 351.00.

23 “Home care worker”, means an individual employed by a home care agency who
24 provides home care services to a consumer in the consumer’s residence.

25 “Personal Care Attendant”, means an individual who provides consumer-directed
26 personal care services to a consumer in the consumer’s residence, including, but not limited to, a
27 person providing such services as defined under section 70 of chapter 118E.

28 (b) The Executive Office of Health and Human Services, in consultation with the Home
29 Care Worker and Consumer Abuse Stakeholder Advisory Committee, MassHealth, the
30 Department of Elder Affairs, the Department of Public Health, and the Personal Care Attendant
31 Workforce Council, shall adopt minimum standards and procedures for addressing abusive
32 treatment and bullying of Massachusetts home care workers, personal care attendants and
33 consumers. Such standards and procedures shall address physical, verbal and mental abuse either

34 of or from individual clients or consumers as well as any abusive treatment or bullying from
35 consumer surrogates, family members, other caregivers and any others present in the consumers'
36 household when the home care worker is providing care services. Such standards and procedures
37 shall promote appropriate worker and consumer training and supports, and a safe and healthy
38 work environment for home care workers, while recognizing the privacy rights of home care
39 clients and consumers, the role of PCA consumer employers and that home care
40 consumers/clients may have a disruptive behavioral disorder underlying abuse behavior.

41 (c) There shall be a Home Care Worker and Consumer Abuse Stakeholder Advisory
42 Committee that shall meet, study, and make recommendations to the Executive Office of Health
43 and Human Services relative to standards and procedures for addressing abusive treatment and
44 bullying of home care workers, personal care attendants and consumers.

45 The advisory committee shall consist of the following 15 members: the secretary of
46 health and human services or a designee who shall serve as chair; the assistant secretary for
47 MassHealth or a designee; the secretary of elder affairs or a designee; the commissioner of
48 public health or a designee; the chairs of the joint committee on elder affairs or their designees;
49 and 9 persons to be appointed by the governor, 1 of whom shall be a Personal Care Attendant, 1
50 of whom shall be a home care agency direct care worker, 1 of whom shall be a consumer of PCA
51 services who shall be a member of the PCA Workforce Council, 1 of whom shall be a consumer
52 of home care agency services, 1 of whom shall be a representative of the Massachusetts
53 Statewide Independent Living Council, 1 of whom shall be a representative of the Disability Law
54 Center, 1 of whom shall be a representative of the Massachusetts Home Care, 1 of whom shall be
55 a representative of the Massachusetts Home Care Aide Council and 1 of whom shall be a

56 representative of the Massachusetts division of 1199SEIU-UHE. The members of the advisory
57 committee shall serve without compensation.

58 The advisory committee shall meet at least monthly in the first six months after passage
59 of this Act to develop initial findings and recommendations. The advisory committee shall
60 submit a report containing initial findings and recommendations, including drafts of proposed
61 legislation or regulatory changes to carry out its recommendations, by filing the same with the
62 clerks of the senate and house of representatives, the joint committee on elder affairs and the
63 joint committee on public health not later than six months following the passage of this Act. The
64 advisory committee shall continue to meet quarterly thereafter and until the advisory committee
65 votes to dissolve itself.

66 (d) The Home Care Worker and Consumer Abuse Stakeholder Advisory Committee shall
67 study and make findings and recommendations relative to the development and implementation
68 of minimum standards and procedures for addressing abusive treatment and bullying of
69 Massachusetts home care workers, personal care attendants and consumers. The advisory
70 committee's study, findings and recommendations shall include, but not be limited to, each of
71 the following matters:

72 1) Reporting and debriefing: Best practices for standards and procedures for home care
73 workers and their consumers/clients experiencing abusive treatment, bullying or neglect to report
74 such abuse to their employers and/or appropriate state entities, including the Personal Care
75 Attendant Workforce Council and/or MassHealth for PCAs, without retaliation and while
76 retaining the right to report any criminal activity to law enforcement. Such standards shall

77 include, but not be limited to, best practices for a debriefing process for affected workers and
78 consumers following violent acts.

79 2) Tracking and record retention: Best practices for standards and procedures for the
80 Executive Office of Health and Human Services to track and monitor reports of both worker
81 abuse and reports of consumer abuse or neglect.

82 3) Informing workers: Best practices for standards and procedures that would require
83 employers of home care workers or other appropriate state entities, including the Personal Care
84 Attendant Workforce Council and/or MassHealth for PCAs, to regularly inform home care
85 workers of patterns of consumer/client worker abuse or bullying that indicates a potentially
86 unsafe working environment. Such standards and procedures shall respect home care
87 client/consumer privacy while prioritizing worker safety and while ensuring continuity of care.

88 4) Training and employer policies: Best practices for standards and procedures for the
89 Executive Office of Health and Human Services, in consultation with home care employers and
90 other stakeholders, to develop and implement home care worker and consumer orientations and
91 other trainings on worker abuse and bullying, escalation cycles and effective deescalation
92 techniques, culturally competent and peer-to-peer trainings and strategies to prevent physical
93 harm with hands-on practice or role play. Best practices for home care employers to implement
94 additional internal plans and procedures to reduce workplace violence and abuse, offer resources
95 to employees for coping with the effects of violence and develop labor-management workplace
96 safety committees.

97 SECTION 2. Discrimination and civil rights

98 Section 1 of chapter 151B of the General Laws is hereby amended in line 21 by
99 inserting after the words “departments and commissions thereof” the following words:- “and
100 shall also include an employer of a personal care attendant as defined under section 70 of chapter
101 118e of the General Laws including individual consumers of a personal care attendant”.