

SENATE No. 1603

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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 health care facilities to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/15/2021</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>5/17/2021</i>

SENATE No. 1603

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 1603) of Jason M. Lewis and Hannah Kane for legislation to require health care facilities to develop and implement programs to prevent workplace violence. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1093 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act requiring health care facilities 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 2018 Official Edition,
2 is hereby amended by inserting after section 237, the following new section:-

3 Section 238. (a) As used in this section, the following words shall have the following
4 meanings:-

5 “Employee”, an individual employed or contracted by a health care facility as defined in
6 this section.

7 “Health care facility”, a hospital as defined in section 51 of chapter 111.

8 “Workplace violence”, any attempted or actual harmful or unpermitted touching of
9 another person that results in injury and occurs on a work site.

10 (b) Notwithstanding any general or special law to the contrary, the department shall
11 develop statewide standards for evaluating and addressing known security risks at health care
12 facilities. Such standards shall be based on existing state laws and regulations as well as national
13 accreditation and professional association standards for health care facilities for the purpose of
14 ensuring consistency in the development of and annual review of internal operations preventing
15 known risks. These standards shall include, but not be limited to: working in public settings;
16 guarding or maintaining property or possessions; working in high-crime areas; working late night
17 or early morning hours; working alone or in small numbers; uncontrolled public access to the
18 workplace; working in public areas where people are in crisis; working in areas where patients or
19 residents may exhibit violent behavior; and working in areas with known security problems. In
20 developing such standards, the department shall convene and consult with an advisory committee
21 comprised of health care facilities, including but not limited to, leadership, staff nurses and
22 facility directors. Following development of the statewide standards, each healthcare facility
23 shall be required to provide a summary of its operational policy that complies with the standards
24 and includes a description of: (i) the development of security risk identification; (ii) engagement
25 with employees on potential risks; (iii) evaluation of incidents that have occurred; and (iv)
26 periodic reassessments of programs and policies. Such summaries shall be submitted to the
27 department within six months after the advisory committee promulgates its standards, and shall
28 be updated when a health care facility makes a substantive change to its operational policy for
29 security risk assessment.

30 (c) The health care facility shall develop and implement a program to minimize the
31 danger of workplace violence to employees based on the statewide standards developed pursuant
32 to subsection (b), which shall include appropriate employee training and a system for the
33 ongoing reporting and monitoring of incidents and situations involving violence or the risk of
34 violence. Employee training shall include, in addition to all employer training program policies,
35 methods of reporting to appropriate public safety officials, bodies or agencies and processes
36 necessary for the filing of criminal charges. Each health care facility shall develop a written
37 violence prevention plan setting forth the facility's workplace violence prevention plan. The
38 health care facility shall make the plan available on site to each employee and allow any of its
39 employees to review the plan on site upon request. The health care facility shall provide the plan
40 to a labor organization that represents employees at the health care employer.

41 (d) Each health care facility shall designate a senior manager responsible for the
42 development and support of an in-house crisis response team for employee-victims of workplace
43 violence. Said team shall implement an assaulted staff action program that includes, but is not
44 limited to, group crisis interventions, individual crisis counseling, staff victims' support groups,
45 employee victims' family crisis intervention, peer-help or professional referrals.

46 (e) The commissioner of public health shall adopt rules and regulations necessary to
47 implement the purposes of this act. The rules and regulations shall include such guidelines as the
48 commissioner deems appropriate regarding workplace violence prevention programs required
49 pursuant to this act, and related reporting and monitoring systems and employee training.

50 (f) Each health care facility shall report every six months all incidents of assault and
51 assault and battery under this section and section 13I of chapter 265 to the department of public

52 health and the office of the district attorney. The department shall make an annual public report
53 using aggregated statewide data of reported incidents of assault and assault and battery under this
54 section and section 13I of chapter 265.

55 SECTION 2. Section 13I of chapter 265 of the General Laws, as so appearing, is hereby
56 amended by replacing the entire section with the following language:-

57 Whoever commits an assault or an assault and battery on an employee, as defined in
58 section 238 of chapter 111, while the employee is in the course of employment at the time of
59 such assault or assault and battery, shall be punished by imprisonment in state prison for not
60 more than five years or imprisonment in a jail or house of correction for not less than 90 days nor
61 more than 2 and one-half years or by a fine of not less than \$500 nor more than \$5,000, or any
62 combination of said fines and imprisonment.

63 Any employee, as defined in section 238 of chapter 111, who is the victim of assault or
64 assault and battery in the line of duty shall be given the option of providing either the
65 individual's home address, the address of the health care facility where the assault or assault and
66 battery occurred, the address of a labor organization who is representing the employee, if so
67 requested by the employee or by requesting a judge to impound the individual's home address. In
68 instances where the address of the health care facility or labor organization is used, said facility
69 or labor organization shall ensure that the individual receives any documents pertaining to the
70 assault or assault and battery by the next business day of receipt by said facility or labor
71 organization. The health care facility or labor organization shall demonstrate that it has provided
72 any and all documentation by obtaining an acknowledgement of receipt from the individual.

73 SECTION 3. Chapter 265 of the General Laws as so appearing, is hereby amended after
74 Section 13I by inserting at the end the following sections:-

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

77 "Employee", an individual employed or contracted by a health care facility as defined in
78 this section.

79 "Health care facility", a hospital as defined under section 51 of chapter 111.

80 (b) A health care facility shall permit an employee to take unpaid leave from work if: (i)
81 the employee is a victim of assault or assault and battery which occurred in the line of duty; and
82 (ii) the employee is using the leave from work to: seek or obtain victim services or legal
83 assistance; obtain a protective order from a court; appear in court or before a grand jury; or meet
84 with a district attorney.

85 (c) An employee seeking leave from work under this section shall provide appropriate
86 advance notice of the leave to the health care facility as required by the facility's leave policy.

87 (d) A health care facility may require an employee to provide documentation evidencing
88 that the employee has been a victim of assault or assault and battery sustained in the line of duty
89 and that the leave taken is consistent with the conditions of clauses (i) and (ii).

90 (e) If an unscheduled absence occurs, the health care facility shall not take any negative
91 action against the employee if the employee, within 30 days from the unauthorized absence or
92 within 30 days from the last unauthorized absence in the instance of consecutive days of

93 unauthorized absences, provides documentation that the unscheduled absence meets the criteria
94 of clauses (i) and (ii).

95 (f) An employee shall provide such documentation to the health care facility within a
96 reasonable period after the health care facility requests documentation relative to the employee's
97 absence.

98 (g) All information related to the employee's leave under this section shall be kept
99 confidential by the health care facility and shall not be disclosed, except to the extent that
100 disclosure is: (i) requested or consented to, in writing, by the employee; (ii) ordered to be
101 released by a court of competent jurisdiction; (iii) otherwise required by applicable federal or
102 state law; (iv) required in the course of an investigation authorized by law enforcement,
103 including, but not limited to, an investigation by the attorney general; or (v) necessary to protect
104 the safety of the employee or others employed at the facility.

105 (h) An employee seeking leave under this section shall not have to exhaust all annual
106 leave, vacation leave, personal leave or sick leave available to the employee, prior to requesting
107 or taking leave under this section.

108 (i) No health care facility shall coerce, interfere with, restrain or deny the exercise of, or
109 any attempt to exercise, any rights provided under this section or to make leave requested or
110 taken hereunder contingent upon whether or not the victim maintains contact with the alleged
111 abuser.

112 (j) No health care facility shall discharge or in any other manner discriminate against an
113 employee for exercising the employee's rights under this section. The taking of leave under this
114 section shall not result in the loss of any employment benefit accrued prior to the date on which

115 the leave taken under this section commenced. Upon the employee's return from such leave, the
116 employee shall be entitled to restoration to the employee's original job or to an equivalent
117 position.

118 (k) The attorney general shall enforce this section and may seek injunctive relief or other
119 equitable relief to enforce this section.

120 (l) Health care facilities shall notify each employee of the rights and responsibilities
121 provided by this section including those related to notification requirements and confidentiality.

122 (m) This section shall not be construed to exempt a health care facility from complying
123 with chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the
124 rights of any employee under said chapter 258B, said section 14B of chapter 268 or any other
125 general or special law.

126 SECTION 4. Notwithstanding any general or special law or rule or regulation to the
127 contrary the executive office of health and human services shall coordinate with the executive
128 office of public safety and security to develop regulations that would allow healthcare providers,
129 as defined in section 1 of chapter 111, to be able to access reports on individuals maintained by
130 agencies within each executive office as well as other public safety and law enforcement officials
131 through a secure electronic medical record, health information exchange, or other similar
132 software or information systems connected to healthcare providers for the purposes of: (i)
133 improving ease of access and utilization of such data for treatment and diagnosis; (ii) supporting
134 integration of such data within the electronic health records of a healthcare provider for purposes
135 of treatment of diagnosis; or (iii) allowing healthcare providers and their vendors to maintain
136 such data for the purposes of compiling and visualizing such data within the electronic health

137 records of a healthcare provider that supports treatment or diagnosis. Such regulations shall
138 further allow the sharing of such information between healthcare providers consistent with
139 federal and state privacy requirements through a secure electronic medical record, health
140 information exchange or other similar software or information systems.

141 SECTION 5. This act shall take effect 6 months upon its passage.