

**SENATE . . . . . No. 419**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Joan B. Lovely***

*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:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/26/2021</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/2/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>3/3/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/8/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/9/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/10/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/17/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/19/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>3/23/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>4/1/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>4/3/2021</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>4/10/2021</i>

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By Ms. Lovely, a petition (accompanied by bill, Senate, No. 419) of Joan B. Lovely, Jack Patrick Lewis, Carol A. Doherty, Angelo J. Puppolo, Jr. and other members of the General Court for legislation to create safe environments for home care workers and consumers. Elder Affairs.

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**The Commonwealth of Massachusetts**

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

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

5           “Home care agency”, an entity or organization, however organized and whether  
6 conducted for profit or not for profit, that is owned, operated, maintained or advertised for the  
7 purpose of providing home care services in residential settings for compensation, provided,  
8 however, that home care agency shall not include an entity operated by either the federal  
9 government or the commonwealth providing home care services; an entity that limits its business  
10 exclusively to the provision of house cleaning services; an aging service access points or ASAP  
11 entity as defined in section 4B of chapter 19A; a hospice program licensed under section 57D of  
12 chapter 111; or an adult foster care program regulated under 130 CMR 408.

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

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

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

27 (b) The Executive Office of Health and Human Services, in consultation with the Home  
28 Care Worker and Consumer Abuse Stakeholder Advisory Committee, MassHealth, the  
29 Department of Elder Affairs, the Department of Public Health, and the Personal Care Attendant  
30 Workforce Council, shall adopt minimum standards and procedures for addressing abusive  
31 treatment and bullying of Massachusetts home care workers, personal care attendants and  
32 consumers. Such standards and procedures shall address physical, verbal and mental abuse either  
33 of or from individual clients or consumers as well as any abusive treatment or bullying from  
34 consumer surrogates, family members, other caregivers and any others present in the consumers’

35 household when the home care worker is providing care services. Such standards and procedures  
36 shall promote appropriate worker and consumer training and supports, and a safe and healthy  
37 work environment for home care workers, while recognizing the privacy rights of home care  
38 clients and consumers, the role of PCA consumer employers and that home care  
39 consumers/clients may have a disruptive behavioral disorder underlying abuse behavior.

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

44 The advisory committee shall consist of the following 15 members: the secretary of  
45 health and human services or a designee who shall serve as chair; the assistant secretary for  
46 MassHealth or a designee; the secretary of elder affairs or a designee; the commissioner of  
47 public health or a designee; the chairs of the joint committee on elder affairs or their designees;  
48 and 9 persons to be appointed by the governor, 1 of whom shall be a Personal Care Attendant, 1  
49 of whom shall be a home care agency direct care worker, 1 of whom shall be a consumer of PCA  
50 services who shall be a member of the PCA Workforce Council, 1 of whom shall be a consumer  
51 of home care agency services, 1 of whom shall be a representative of the Massachusetts  
52 Statewide Independent Living Council, 1 of whom shall be a representative of the Disability Law  
53 Center, 1 of whom shall be a representative of the Massachusetts Home Care, 1 of whom shall be  
54 a representative of the Massachusetts Home Care Aide Council and 1 of whom shall be a  
55 representative of the Massachusetts division of 1199SEIU-UHE. The members of the advisory  
56 committee shall serve without compensation.

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

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

71           1) Reporting and debriefing: Best practices for standards and procedures for home care  
72 workers and their consumers/clients experiencing abusive treatment, bullying or neglect to report  
73 such abuse to their employers and/or appropriate state entities, including the Personal Care  
74 Attendant Workforce Council and/or MassHealth for PCAs, without retaliation and while  
75 retaining the right to report any criminal activity to law enforcement. Such standards shall  
76 include, but not be limited to, best practices for a debriefing process for affected workers and  
77 consumers following violent acts.

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

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

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

96           SECTION 2. Section 1 of chapter 151B of the General Laws is hereby amended in line  
97 21 by inserting after the word “thereof” the following words:-

98           and shall also include an employer of a personal care attendant as defined under section  
99 70 of chapter 118e of the General Laws including individual consumers of a personal care  
100 attendant