

SENATE No. 768

The Commonwealth of Massachusetts

PRESENTED BY:

Cindy F. Friedman

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 protect medically fragile children.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|--------------------------|----------------------------------|------------------|
| <i>Cindy F. Friedman</i> | <i>Fourth Middlesex</i> | |
| <i>Joan B. Lovely</i> | <i>Second Essex</i> | <i>2/23/2021</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>2/23/2021</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>2/23/2021</i> |
| <i>Hannah Kane</i> | <i>11th Worcester</i> | <i>2/23/2021</i> |
| <i>James Arciero</i> | <i>2nd Middlesex</i> | <i>2/23/2021</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>2/23/2021</i> |
| <i>Paul R. Feeney</i> | <i>Bristol and Norfolk</i> | <i>2/26/2021</i> |
| <i>Colleen M. Garry</i> | <i>36th Middlesex</i> | <i>3/2/2021</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>3/2/2021</i> |
| <i>Bruce E. Tarr</i> | <i>First Essex and Middlesex</i> | <i>3/24/2021</i> |

SENATE No. 768

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 768) of Cindy F. Friedman, Joan B. Lovely, Jason M. Lewis, Thomas M. Stanley and other members of the General Court for legislation to protect medically fragile kids. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 686 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act to protect medically fragile children.

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 118E of the General Laws is hereby amended by adding the
2 following section:-

3 Section 79. (a) Notwithstanding any general or special law to the contrary, and subject to
4 appropriation, the executive office of health and human services shall increase the budget for
5 continuous skilled nursing care, as defined in 101 CMR 361 and 130 CMR 403.402, by an
6 amount that ensures:

7 (1) At least 75 percent of continuous skilled nursing hours authorized by MassHealth are
8 filled on or before July 1, 2021;

9 (2) At least 80 percent of continuous skilled nursing hours authorized by MassHealth are
10 filled on or before July 1, 2022; and

11 (3) At least 85 percent of continuous skilled nursing hours authorized by MassHealth are
12 filled on or before July 1, 2023, and shall remain at 85 percent or above thereafter.

13 (b) The executive office of health and human services may require any portion of the
14 budget increases provided for in this section to be used exclusively to increase the wage payment
15 rate of nurses providing continuous skilled nursing care.

16 (c) To satisfy the requirements in subsection (a), the executive office of health and human
17 services shall require MassHealth to submit an annual report no later than January 1 that:

18 (1) demonstrates that MassHealth has not changed its authorization criteria for
19 continuous skilled nursing services in a way that is more restrictive and results in a reduction in
20 the amount of authorized hours that would have been authorized previously; and

21 (2) includes the following information from the immediately preceding calendar year: (i)
22 the number of filled and unfilled continuous skilled nursing hours authorized by MassHealth; (ii)
23 the number of appeals received by MassHealth for the denial or modification of continuous
24 skilled nursing hours and the number of patients that filed an appeal; (iii) the number of patients
25 that received a reduction in the amount of authorized continuous skilled nursing hours; and (iv)
26 the number of authorized continuous skilled nursing hours reduced from the immediately
27 preceding calendar year, if any.

28 (d) The executive office of health and human services, in collaboration with MassHealth
29 and after consultation with the Massachusetts Pediatric Nursing Care Campaign, shall
30 promulgate regulations to implement this section.

31 (e) Nothing in this section shall be construed to prohibit filling 85 percent of the
32 continuous skilled nursing hours authorized by MassHealth prior to July 1, 2023.

33 SECTION 2. Notwithstanding any general or special law to the contrary, the office of
34 Medicaid shall review the wage payment rates established by home health agencies that provide
35 continuous skilled nursing care, as defined in 101 CMR 350.02 and 130 CMR 403.402, for the
36 providers of those services. The office shall provide: (i) an aggregated overview of the wage
37 payment rates paid by home health agencies to staff or contracted nurses providing continuous
38 skilled nursing care, including any increases in said wage rates resulting from increases in
39 Medicaid rates paid to home health agencies for continuous skilled nursing care in state fiscal
40 years 2017 and 2018; (ii) an aggregated breakdown of said wage rates as applied to the acuity
41 level of patients receiving continuous skilled nursing care; (iii) an aggregated breakdown of said
42 wage rates as applied to the licensure level of the providers of continuous skilled nursing care;
43 (iv) recommendations on criteria to be included in any future reporting by home health agencies
44 receiving an increase of continuous skilled nursing care rates provided by the office. The office
45 shall provide this report not later than March 1, 2022 to the clerks of the senate and house of
46 representatives, the joint committee on health care financing and the senate and house
47 committees on ways and means. Home health agencies providing continuous skilled nursing care
48 shall provide all information and documentation requested by the office of Medicaid to compile
49 the required report under this section.