

SENATE No. 955

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

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 prohibiting the use of public funds to pay awards, fines or settlements in sexual harassment or assault cases.

PETITION OF:

NAME:

Joanne M. Comerford

DISTRICT/ADDRESS:

Hampshire, Franklin and Worcester

SENATE No. 955

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 955) of Joanne M. Comerford for legislation to prohibit the use of public funds to pay awards, fines or settlements in cases where public officials are found responsible or guilty of sexual harassment or assault. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 871 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act prohibiting the use of public funds to pay awards, fines or settlements in sexual harassment or assault cases.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to prohibit forthwith the use of public funds to pay awards, fines or settlements in cases where public officials are found responsible or guilty of sexual harassment or assault, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 29 of the General Laws is hereby amended by inserting after section 29K the
2 following section:-

3 Section 29L. (a) For the purposes of this section, the following terms shall have the
4 following meanings unless the context clearly requires otherwise:

5 “Public entity”, the commonwealth, a political subdivision thereof or any agency or
6 authority of the commonwealth or a political subdivision thereof.

7 “Public funds”, (i) funds drawn from the treasury, General Fund or any other fund of
8 the commonwealth; or (ii) funds drawn from revenue collected or imposed by a subdivision of
9 the commonwealth.

10 “Campaign account”, an account established by a candidate for political office
11 pursuant to section 19 of chapter 55.

12 “Public official”, an individual who holds an elected or appointed office, position,
13 employment or membership in a public entity.

14 “Sexual harassment”, a form of sex discrimination that violates Title VII of the Civil
15 Rights Act of 1964, or as defined in section 1 of chapter 151B or section 1 of chapter 151C.

16 “Sexual assault”, a violation or attempt to commit a violation of sections 13B to
17 13B3/4, inclusive, section 13F, section 13H, sections 22 to 24, inclusive, or section 24B of
18 chapter 265 or section 3 of chapter 272.

19 (b) A public entity shall not make an expenditure of public funds, nor shall a public
20 official make an expenditure from a campaign account, to settle a claim or action on behalf of a
21 public official resulting from an incident or alleged incident of sexual harassment or sexual
22 assault that occurred while the public official was serving as a public official and in which the
23 public official is found guilty of or responsible for sexual harassment or sexual assault or for
24 which a settlement in connection with an accusation of sexual harassment or sexual assault is
25 reached. Nothing in this subsection shall prevent a public entity from making such an

26 expenditure if the public entity itself is found to be liable in connection with such an incident or
27 alleged incident.

28 If a public official is found responsible for a payment of an award, fine or settlement in
29 connection with an incident or alleged incident of sexual harassment or sexual assault made
30 pursuant to a decision of a hearing officer or a court in a civil or criminal action or a settlement
31 agreement, the public official shall make the payment using the public official's personal funds.

32 (c) Notwithstanding subsection (b), if a hearing officer or a court finds that a public
33 official is unable to pay an award, fine or settlement under said subsection (b), the award, fine or
34 settlement may be paid by a public entity; provided, however, that the public official shall
35 reimburse the public entity for the amount of the award or settlement pursuant to subsection (d).

36 (d) The executive office for administration and finance shall determine the form and
37 timing of any reimbursement under subsection (c), including any withholding of portions of the
38 public official's salary or other payments from a public entity to the public official.