

# 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 Uyterhoeven</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> |

# SENATE . . . . . No. 419

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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

\_\_\_\_\_  
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’

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

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

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

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

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

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

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

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

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

SECTION 2. Section 1 of chapter 151B of the General Laws is hereby amended in line 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