

**HOUSE . . . . . No. 2330****The Commonwealth of Massachusetts**

PRESENTED BY:

***Denise C. Garlick***

*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 employers to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>1/18/2023</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>1/24/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>1/26/2023</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>1/26/2023</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>1/26/2023</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/26/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>1/26/2023</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>1/26/2023</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/26/2023</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>1/26/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/26/2023</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>1/26/2023</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	<i>1/26/2023</i>
<i>Adam Scanlon</i>	<i>14th Bristol</i>	<i>1/26/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>1/26/2023</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/26/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/26/2023</i>

<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/26/2023</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>	<i>1/26/2023</i>
<i>Christopher J. Worrell</i>	<i>5th Suffolk</i>	<i>1/26/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/26/2023</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>1/26/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/26/2023</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/26/2023</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>1/26/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>1/27/2023</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>1/30/2023</i>
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>1/30/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>1/30/2023</i>
<i>Marc R. Pacheco</i>	<i>Third Bristol and Plymouth</i>	<i>1/30/2023</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>1/30/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>1/30/2023</i>
<i>Meghan Kilcoyne</i>	<i>12th Worcester</i>	<i>1/30/2023</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/30/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/30/2023</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>1/30/2023</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>1/30/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/30/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>1/30/2023</i>
<i>Kate Donaghue</i>	<i>19th Worcester</i>	<i>1/30/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>1/30/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/30/2023</i>
<i>Rita A. Mendes</i>	<i>11th Plymouth</i>	<i>1/30/2023</i>
<i>Ryan M. Hamilton</i>	<i>15th Essex</i>	<i>1/31/2023</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>1/31/2023</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/31/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/31/2023</i>
<i>Samantha Montaña</i>	<i>15th Suffolk</i>	<i>1/31/2023</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/31/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>1/31/2023</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>1/31/2023</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/31/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/31/2023</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/31/2023</i>

<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/1/2023</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>2/1/2023</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/1/2023</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>	<i>2/2/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>2/3/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>2/5/2023</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>2/6/2023</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/6/2023</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>2/6/2023</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/6/2023</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>2/7/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/8/2023</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>2/8/2023</i>
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>2/8/2023</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>2/9/2023</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>2/9/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/13/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/21/2023</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/22/2023</i>
<i>Christopher Richard Flanagan</i>	<i>1st Barnstable</i>	<i>2/23/2023</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/28/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>3/2/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>3/14/2023</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/30/2023</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>5/8/2023</i>
<i>Steven George Xiarhos</i>	<i>5th Barnstable</i>	<i>5/8/2023</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>6/14/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>7/17/2023</i>
<i>Priscila S. Sousa</i>	<i>6th Middlesex</i>	<i>8/16/2023</i>
<i>William F. MacGregor</i>	<i>10th Suffolk</i>	<i>10/6/2023</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>11/3/2023</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>	<i>12/6/2023</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>3/14/2024</i>

# HOUSE . . . . . No. 2330

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By Representative Garlick of Needham, a petition (accompanied by bill, House, No. 2330) of Denise C. Garlick and others relative to providing protections for health care employees who are victims of violence or assault and battery. Public Safety and Homeland Security.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4574 OF 2021-2022.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninety-Third General Court  
(2023-2024)  
\_\_\_\_\_

An Act requiring health care employers 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 2020 Official Edition,  
2   is hereby amended by adding the following section:-

3           Section 243. (a) As used in this section, the following words shall, unless the context  
4   clearly requires otherwise, have the following meanings:-

5           “Employee”, an individual employed by a health care employer.

6           “Health care employer”, any individual, partnership, association, corporation, trust or any  
7   person or group of persons operating a health care facility.

8 “Health care facility”, a hospital, licensed under section 51, the teaching hospital of the  
9 University of Massachusetts medical school, a medium-security state correctional facility for  
10 male inmates located in Plymouth county that is operated and maintained by a private company  
11 under contract with the department of correction, or any state acute care facility, non-acute care  
12 facility, continuing care facility and group homes operated, funded or subject to oversight by the  
13 department of public health, the department of mental health or the department of developmental  
14 services except a: (i) nursing home; (ii) rest home; (iii) clinic; (iv) mobile or portable clinic; (v)  
15 mobile or portable clinic satellite; (vi) certified home health agency; (vii) adult day health; (viii)  
16 hospice; (ix) hospice inpatient satellite; (x) ambulatory surgical center; (xi) renal dialysis; (xii)  
17 outpatient physical therapy and speech pathology; and (xiii) temporary nursing agency; provided  
18 that, a facility with more than 1 license or that is licensed to provide multiple services, shall be  
19 considered a health care facility if the facility is licensed in at least 1 of the included categories.

20 “Workplace Violence”, conduct at the work site that is: (i) an unpermitted or harmful  
21 touching of another person; (ii) an attempt or act to use some degree of physical force on another  
22 person; or (iii) engaging in conduct that could be reasonably perceived as an intent to touch  
23 without permission, use immediate physical force or injure a particular person now or in the  
24 future, that if carried out would constitute a crime, and causes another person to reasonably  
25 believe that the person has the intent and ability to carry out such conduct.

26 (b) Annually, each health care employer shall perform a facility specific risk assessment  
27 that includes, but is not limited to, the standards determined by the department. The facility  
28 specific risk assessment shall be done in cooperation with the employees of the health care  
29 employer and any labor organization or organizations representing the employees, examining all  
30 factors, which may put any of the employees at risk of workplace violence. The factors shall

include, but not be limited to: (i) working in public settings; (ii) guarding or maintaining property or possessions; (iii) working in high-crime areas; (iv) working late night or early morning hours; (v) working alone or in small numbers; (vi) uncontrolled public access to the workplace; (vii) working in public areas where people are in crisis; (viii) working in areas where a patient or resident may exhibit violent behavior; (ix) working in areas with known security problems; and (x) working with insufficient qualified staff in 1 or more position titles to address foreseeable risk factors.

(c) Based on the findings of the risk assessment in subsection (b), the health care employer shall develop and implement a program to minimize the danger of workplace violence to employees, which shall include appropriate employee training, and a system for the ongoing reporting and monitoring of incidents and situations involving violence or the risk of violence. Employee training shall include, in addition to all employer training program policies, methods of reporting to appropriate public safety officials, bodies or agencies and processes necessary for the filing of criminal charges.

(d) Each health care employer shall develop a written violence prevention plan setting forth the employer's workplace violence prevention plan. The health care employer shall make the plan available to each employee and provide the plan to any of its employees upon request. The health care employer shall provide the plan to any labor organization or organizations representing any of its employees. The plan shall include: (i) a list of those factors and circumstances that may pose a danger to employees; (ii) a description of the methods that the health care employer will use to alleviate hazards associated with each factor; including, but not limited to, employee training and any appropriate changes in job design, staffing, security,

equipment or facilities; (iii) a post-incident debriefing process with affected staff; and (iv) a description of the reporting and monitoring system.

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

(f) Any health care employer who violates any rule, regulation or requirement made by the department under authority hereof shall be punished by a fine of not more than \$2,000 for each offense. The department or its representative or any aggrieved employee, any interested party or any officer of any labor union or association, whether incorporated or otherwise, may file a written complaint with the district court in the jurisdiction of which the violation occurs and shall promptly notify the attorney general in writing of such complaint. The attorney general, upon determination that there is a violation of any workplace standard relative to the protection of the occupational health and safety of employees or of any standard of requirement of licensure, may order any work site to be closed by way of the issuance of a cease and desist order enforceable in the appropriate courts of the commonwealth.

(g) No employee shall be penalized by a health care employer in any way as a result of such employee's filing of a complaint or otherwise providing notice to the department in regard to the occupational health and safety of such employee or their fellow employees exposed to workplace violence risk factors.

(h) Not less than every 180 days, each health care employer shall submit a report, on a form prescribed by the commissioner of the department, of all incidents of workplace violence reported to the health care employer that occurred at the health care facility on an employee, an emergency medical technician, an ambulance operator or an ambulance attendant. The report shall be submitted to the department and the office of the district attorney for the county where the health care facility is located. Not more than 90 days after receiving the reports, the department shall make the aggregate data statewide and by county publicly available; provided that the department categorize the aggregate data by occupation and incident type.

SECTION 2. Chapter 149 of the General Laws is hereby amended by inserting after section 52E the following section:-

Section 52F. (a) For purposes of this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

“Employee”, an individual employed by a health care employer.

“Health care employer”, any individual, partnership, association, corporation or, trust or any person or group of persons operating a health care facility.

“Health care facility”, a hospital, licensed under section 51, the teaching hospital of the University of Massachusetts medical school, a medium-security state correctional facility for male inmates located in Plymouth county that is operated and maintained by a private company under contract with the department of correction, or any state acute care facility, non-acute care facility, continuing care facility and group homes operated, funded or subject to oversight by the department of public health, the department of mental health or the department of developmental services except a: (i) nursing home; (ii) rest home; (iii) clinic; (iv) mobile or portable clinic; (v)



mobile or portable clinic satellite; (vi) certified home health agency; (vii) adult day health; (viii) hospice; (ix) hospice inpatient satellite; (x) ambulatory surgical center; (xi) renal dialysis; (xii) outpatient physical therapy and speech pathology; and (xiii) temporary nursing agency; provided that, a facility with more than 1 license or that is licensed to provide multiple services, shall be considered a health care facility if the facility is licensed in at least 1 of the included categories.

(b) A health care employer shall permit an employee to take up to 7 days of leave from work in any 12 month period if: (i) the employee is a victim of an assault or assault and battery which occurred in the line of duty and (ii) the employee uses the leave to seek or obtain victim services or legal assistance; obtain a protective order from a court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or to address other legal issues directly related to the assault or assault and battery.

(c) The leave taken pursuant to subsection (b) shall be paid.

(d) A health care employer may require an employee to provide documentation evidencing that the employee is a victim of assault or assault and battery sustained in the line of duty and that the leave taken is consistent with the conditions of subsection (b). An employee shall provide such documentation to the health care employer within 5 business days after the health care employer requests documentation relative to the employee's absence.

(e) An employee seeking leave from work pursuant to subsection (b) shall provide advance notice of the leave to the employer in accordance with the employer's leave policy; provided, however, that if an employee is absent on an unauthorized basis, the health care employer shall not take any negative action against the employee if the employee, within 30 days from the unauthorized absence or within 30 days from the last unauthorized absence in the

instance of consecutive days of unauthorized absences, provides documentation that the unauthorized absence meets the criteria of subsection (b).

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

(g) No health care employer shall require an employee to exhaust all annual leave, vacation leave, personal leave or sick leave available to the employee prior to requesting or taking leave under this section.

(h) No health care employer shall coerce, interfere with, restrain or deny the exercise of, or any attempt to exercise, any rights provided by this section or to make leave requested or taken hereunder contingent upon whether or not the victim maintains contact with the alleged abuser.

(i) No health care employer shall discharge or in any other manner discriminate against an employee for exercising the employee's rights under this section. An employee who takes leave under this section shall not lose any employment benefit accrued prior to the date on which the leave taken under this section commenced as a result of taking said leave. Upon the employee's return from said leave, the employee shall be entitled to restoration to the employee's original job or to an equivalent position.

(j) Each health care employer shall post in a conspicuous place within the health care facility a notice prepared or approved by the department indicating the rights and responsibilities provided by this section. The notice shall be issued in English, Spanish, Chinese, Haitian Creole, Italian, Portuguese, Vietnamese, Laotian, Khmer, Russian and any other language that is the primary language of at least 10,000 or ½ of one per cent of all residents of the commonwealth. The required workplace notice shall be in English and each language other than English which is the primary language of 5 or more employees or self-employed individuals of that workplace, if such notice is available from the department. Each health care employer shall notify each employee not more than 30 days from the beginning date of the employee's employment, the rights and responsibilities provided by this section, including those related to notification requirements and confidentiality.

(k) This section shall not be construed to exempt an employer from complying with chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the rights of any employee under said chapter 258B, said section 14B of chapter 268 or any other general or special law.

SECTION 3. Section 13I of chapter 265 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following paragraph:-

Any emergency medical technician, ambulance operator, ambulance attendant or a health care provider as defined in section 240 of chapter 111, who is the victim of assault or assault and battery at a health care facility, as such term is defined in said section 240, in the line of duty shall be given the option of providing the address of the health care facility where the assault or assault and battery occurred or of the labor organization in which they are a member in good

162 standing. In instances where the address of the health care facility is used or labor organization to  
163 which the employee is a member in good standing, the health care facility or labor organization  
164 shall ensure that the individual receives any documents pertaining to the assault or assault and  
165 battery within 24 hours of receipt by the health care facility or labor organization. The health  
166 care facility or labor organization shall demonstrate that it has provided any and all  
167 documentation by obtaining a signature from the individual acknowledging receipt.

168           SECTION 4. The commissioner of public health shall adopt rules and regulations within  
169 180 days of enactment of this act necessary to implement and enforce the purposes of section  
170 240 of chapter 111 of the General Laws.