HOUSE DOCKET, NO. 3627 FILED ON: 1/20/2023

HOUSE . . . . . No. 2381

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Moran

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 facilities to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Michael J. Moran	*18th Suffolk*	*1/20/2023*
Steven S. Howitt	*4th Bristol*	*2/24/2023*

HOUSE DOCKET, NO. 3627 FILED ON: 1/20/2023

HOUSE . . . . . No. 2381

By Representative Moran of Boston, a petition (accompanied by bill, House, No. 2381) of Michael J. Moran and Steven S. Howitt for legislation to require health care facilities to develop and implement programs to prevent workplace violence. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2506* OF 2021-2022.]

The Commonwealth of Massachusetts

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

An Act requiring health care facilities 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:

SECTION 1. Chapter 111 of the general laws is hereby amended by inserting after section 243 the following new section:-

Section 244. (a) For the purposes of this section, the following words shall have the following meanings:-

"Aggravated interference with the conduct of a health care facility", conduct as defined by section 13½ of chapter 265.

"Employee", an individual employed by, or contracted for employment by, providing health care services at, volunteering at, or participating in an educational course of instruction at a health care facility, as defined in this section.

"Health care facility", a hospital as defined under section 51 of chapter 111 of the general laws.

"Interference with the conduct of a health care facility", conduct as defined by section 13½ of chapter 265.

"Workplace violence", any attempted or actual harmful or unpermitted touching of another person that results in injury and occurs in a health care facility.

(b) Not withstanding any general or special law to the contrary, within six months of the date of enactment, the department shall develop statewide standards for evaluating and addressing known security risks at health care facilities. These workplace safety and violence prevention standards shall be based on existing state laws and regulations as well as national accreditation and professional association standards for health care facilities for the purpose of ensuring consistency in the development of and annual review of internal operations preventing known risks.

These standards shall include, but not be limited to: working in a health care facility in an region with higher than average criminal activity; working in public settings; guarding or maintaining property or possessions; working in high-traffic areas of a health care facility; working late night or early morning hours; working alone or in small numbers; working in areas of a health care facility where patients or visitors are in crisis; working in areas where patients or visitors may exhibit violent or involuntary behavior and; working in areas with known security

risks. In developing such standards, the department shall convene and consult with an advisory committee comprised of representatives from: the Office of Health Equity; the Massachusetts Health and Hospital Association; the Massachusetts Association of Behavioral Health Systems; the Organization of Nurse Leaders; the Emergency Nurses Association Massachusetts Chapter; the Massachusetts Nurses Association; the National Association of Social Workers Massachusetts Chapter; the Massachusetts Association of Community Health Workers; the Massachusetts Chapter of Emergency Physicians; 1199 SEIU United Healthcare Workers East; The National Alliance on Mental Illness Massachusetts and; the Massachusetts Organization for Addiction Recovery. The department shall ensure that workplace safety standards do not exhibit any bias against specific patient populations, or the race, ethnicity, language, disability status, sexual orientation, or gender identity of patients or visitors. The department shall ensure that standards do not stigmatize or bias against patients with mental health, behavioral health, or substance use disorder presentation.

Following development of the statewide standards, each health care facility shall be required to provide a summary of its operational policy that complies with the standards and includes a description of: (i) the development of security risk identification; (ii) engagement with employees on potential risks; (iii) evaluation of incidents that have occurred; and (iv) periodic reassessments of programs and policies. Such summaries shall be submitted to the department within six months after the advisory committee promulgates its standards, and shall be updated when a health care facility makes a substantive change to its operational policy for security risk assessment.

(c) The health care facility shall develop and implement a program to minimize the danger of workplace violence to employees based on the statewide standards developed pursuant

to subsection (b), 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 program policies shall include: crisis de-escalation strategies; competency in behavioral health, mental health, and substance use disorder; implicit bias training; and trauma informed care. Employees shall also be trained in methods of reporting to appropriate public safety officials, bodies or agencies and processes necessary for the filing of criminal charges. Each health care facility shall develop a written plan setting forth the facility's workplace violence prevention plan. The health care facility shall make the plan available on site to each employee and allow any of its employees to review the plan on site upon request.

(d) Each health care facility 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 opt-in staff action program that includes, but is not limited to, anonymous group crisis interventions, individual crisis counseling, staff victims' support groups, employee victims' family crisis intervention, peer-help or professional referrals.

(e) Each health care facility shall report every twelve months all incidents of assault and assault and battery under section 13I of chapter 265, aggravated interference with the conduct of a health care facility under section 13I½ of chapter 265, and interference with the conduct of a health care facility under section 13I½ of chapter 265, to the department of public health and the office of the district attorney. The department of public health shall make an annual public report on the prior year's data using aggregated statewide data of reported incidents.

(f) The commissioner of public health shall adopt rules and regulations necessary to implement the purposes of this act. The rules and regulations shall include such guidelines as the

commissioner deems appropriate regarding workplace violence prevention programs required pursuant to this act, and related reporting and monitoring systems and employee training.

SECTION 2. Chapter 149 of the general laws is hereby amended by adding after section 187 the following new section:-

Section 187½. (a) For purposes of this section, the following words shall have the following meanings, unless the context clearly indicates otherwise:

"Employee", an individual employed by a health care facility as defined in this section.

"Health care facility", a hospital as defined under section 51 of chapter 111 of the general laws.

(b) A health care facility shall permit an employee to take paid leave from work if: (i) the employee is a victim of assault or assault and battery as defined under section 13I of chapter 265, or aggravated interference with the conduct of a health care facility, as defined under section 13I½ of chapter 265, occurred in the line of duty; and (ii) the employee is using the leave from work to: seek or obtain victim services or legal assistance; obtain a protective order from a court; appear in court or before a grand jury; or meet with a district attorney.

(c) An employee seeking leave from work under this section shall provide appropriate advance notice of the leave to the health care facility as required by the facility's leave policy.

(d) A health care facility may require an employee to provide documentation evidencing that the employee has been 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 clauses (i) and (ii).

(e) If an unscheduled absence occurs, the health care facility 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 unscheduled absence meets the criteria of clauses (i) and (ii).

(f) An employee shall provide such documentation to the health care facility within a reasonable period after the health care facility requests documentation relative to the employee's absence.

(g) All information related to the employee's leave under this section shall be kept confidential by the health care facility 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) otherwise required by applicable 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 facility.

(h) An employee seeking leave under this section shall not have 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.

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

(j) No health care facility shall discharge or in any other manner discriminate against an employee for exercising the employee's rights under this section. The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave taken under this section commenced. Upon the employee's return from such leave, the employee shall be entitled to restoration to the employee's original job or to an equivalent position.

(k) The attorney general shall enforce this section and may seek injunctive relief or other equitable relief to enforce this section.

(l) Health care facilities shall notify each employee of the rights and responsibilities provided by this section including those related to notification requirements and confidentiality.

(m) This section shall not be construed to exempt a health care facility 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. Chapter 265 of the general laws is hereby amended in section 13I by inserting at the end thereof the following:-

Any health care employee, as defined in section 244 of chapter 111, who is the victim of assault or assault and battery in the line of duty shall be given the option of providing either the individual's home address, the address of the health care facility where the assault or assault and battery occurred, the address of a labor organization who is representing the employee, if so requested by the employee, or by requesting a judge to impound the individual's home address. In instances where the address of the health care facility or labor organization is used, said

facility or labor organization shall ensure that the individual receives any documents pertaining to the assault or assault and battery by the next business day of receipt by said facility or labor organization. The health care facility or labor organization shall demonstrate that it has provided any and all documentation by obtaining an acknowledgement of receipt from the individual.

SECTION 4. Chapter 265 of the general laws is hereby amended by adding after section 13I the following new section:-

Section 13I½ Interference with the conduct of a health care facility

(a) For the purposes of this section, the following words shall have the following meanings:-

"Aggravated interference with the conduct of a health care facility", interference with the conduct of a health care facility, as defined in this section, knowingly and intentionally, when in possession of a weapon, as defined in this section.

"Employee", an individual employed by, or contracted for employment by, providing health care services at, volunteering at or participating in an educational course of instruction at a health care facility, as defined in this section.

"Health care facility", a hospital as defined under section 51 of chapter 111 of the general laws.

"Interference with the conduct of a health care facility", conduct at or in a health care facility so as to knowingly and intentionally deny an employee of the health care facility to enter, to use the facilities of or to leave any such health care facility; knowingly and intentionally impeding any employee of a health care facility from the performance of such employee's duties

or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof; or knowingly refusing to leave a health care facility upon being requested to leave by the employee charged with maintaining order in such health care facility, if such person is committing, threatens to commit or incites others to commit any act that did, or would if completed, disrupt, impair, interfere with or obstruct the mission, processes, procedures or functions of the health care facility.

"Weapon", a firearm, knife, heavy object, health care instrument, closed fist, shod foot, or any other item that could cause bodily injury.

Whoever knowingly and intentionally interferes with the conduct of a health care facility shall be punished by imprisonment in the house of correction for not less than 90 days nor more than two and one-half years or by a fine of not less than $500 nor more than $5,000, or both.

Whoever knowingly and intentionally commits aggravated interference with the conduct of a health care facility shall be punished by imprisonment in state prison for not more than five years or imprisonment in a jail or house of correction for not less than 90 days nor more than two and one-half years or by a fine of not less than $500 nor more than $5,000, or any combination of said fines and imprisonment.

SECTION 5. Notwithstanding any general or special law or rule or regulation to the contrary, within twelve months of the date of enactment, the executive office of health and human services shall coordinate with the executive office of public safety and security to issue a report and recommendations to improve data sharing, communication, and collaboration between health care facilities, as defined by section 51 of chapter 111 of the general laws, and public safety and law enforcement entities. The regulations shall include but not be limited to: allowing

health care facilities to access reports on individuals maintained by agencies within each department of the executive office of health and human services, and public safety and law enforcement officials through a secure electronic medical record, health information exchange, or other similar software or information systems connected to health care facilities, for the purposes of improving ease of access and utilization of such data for treatment and diagnosis, and supporting integration of such data within a patient's electronic health record for purposes of treatment of diagnosis; expansion of safe and appropriate state-operated alternative placement options for patients presenting in health care facilities in acute mental health or behavioral health crisis and for whom all reasonable clinical interventions have been unsuccessful, and other alternatives, such as transfer to a more secure hospital, are unavailable, and; identifying and establishing new pathways to enter patients into the forensic system that do not require an arrest.