

**SENATE . . . . . No. 966**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Ryan C. Fattman*

*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 relative to health care proxy reform.

PETITION OF:

NAME:

*Ryan C. Fattman*

DISTRICT/ADDRESS:

*Worcester and Hampden*

**SENATE . . . . . No. 966**

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By Mr. Fattman, a petition (accompanied by bill, Senate, No. 966) of Ryan C. Fattman for legislation relative to health care proxy reform. The Judiciary.

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**The Commonwealth of Massachusetts**

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

An Act relative to health care proxy reform.

*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 2 of chapter 201D of the General Laws, as appearing in the 2020 Official Edition,  
2 is hereby amended by inserting after the first paragraph the following paragraph:-

3           If a health care agent has not been appointed by a competent adult through the execution  
4 of a health care proxy, health care decisions may be made by any of the following individuals, in  
5 the following order of priority, when it is determined pursuant to section six that the principal  
6 lacks capacity to make health care decisions: (i) the principal’s spouse, (ii) an adult child of the  
7 principal, (iii) a parent of the principal, (iv) an adult sibling of the principal, (v) an adult relative  
8 of the principal who has exhibited special care and concern for the principal and who has  
9 maintained regular contact with the principal and who is familiar with the principal’s activities  
10 and health. Any health care decision made by a health care agent designated by this paragraph  
11 must be based on informed consent and on the decision the health care agent reasonably believes  
12 the patient would have made under the circumstances. If there is no indication of what the patient  
13 would have chosen, the health care agent may consider the patient’s best interest in deciding that

14 proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.  
15 No person under this paragraph shall be named a health care agent by execution of a health care  
16 proxy who: (i) is currently being investigated or is the subject of a criminal complaint or an  
17 indictment for any violation of chapter 265 of the General Laws that resulted in serious bodily  
18 injury to a principal who has become incapacitated; (ii) is currently being investigated by law  
19 enforcement, the department of elder services or the office of children and families for neglect,  
20 or is the subject of a criminal complaint or indictment therefore, of a principal who has become  
21 incapacitated; or (iii) has been convicted of committing an assault and battery or neglect and the  
22 commission of such offense resulted in serious bodily injury to a principal who has become  
23 incapacitated as defined by said chapter 265. Nothing in this paragraph shall prevent an  
24 individual from their right to deny signing the execution of a health care proxy for any reason.