

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

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 employment protections for victims of abusive behavior.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>1/15/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to employment protections for victims of abusive behavior.

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. Section 1 of Chapter 151B of the General Laws is hereby amended by
2 inserting the following terms: -

3 24. The term “victim of abusive behavior” means a person who is experiencing or has
4 experienced abusive behavior.

5 25. The term “abusive behavior” in this section and subsections 1 through 3 of Section 4
6 of this chapter, including subsection 1F, means (i) any behavior constituting domestic violence;
7 (ii) stalking in violation of Section 43 of Chapter 265; (iii) sexual assault, which shall include a
8 violation of Sections 13B, 13B½, 13B¾, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24, 24B,
9 26D, 50 or 51 of Chapter 265 or Sections 2, 3, or 35A of Chapter 272; or (iv) kidnapping in
10 violation of the third paragraph of Section 26 of Chapter 265.

11 26. The term “domestic violence” in this section means abuse, as defined in Section 1 of
12 Chapter 209A, from an adult or minor family or household member, as defined in Section 1 of
13 Chapter 209A.

14 27. The term “prospective employee” in subsection 1F of Section 4 of Chapter 151B, and
15 in Section 52E of Chapter 149, means a person who (i) has applied for employment with the
16 employer, (ii) has been personally asked to apply for employment with the employer by the
17 employer or employer’s agent, or (iii) has been offered employment with the employer, even if
18 conditional.

19 28. The term “health care” in subsection 1F of Section 4 of Chapter 151B is defined in
20 Section 52E of Chapter 149.

21 SECTION 2. Section 4 of Chapter 151B of the General Laws is hereby amended, in
22 subsection (1), after the word “ancestry” by inserting the following; - “status as a victim of
23 abusive behavior,”.

24 SECTION 3. Section 4 of Chapter 151B of the General Laws is further amended, in
25 subsection (2), after the word “information,” by inserting the following: - “pregnancy or a
26 condition related to said pregnancy including, but not limited to, lactation or the need to express
27 breast milk for a nursing child, status as a victim of abusive behavior,”.

28 SECTION 4. Section 4 of Chapter 151B of the General Laws is further amended, in
29 subsection (3), before the phrase “or status as a veteran”, by inserting “status as a victim of
30 abusive behavior” and before the phrase “status as a veteran” by inserting “status as a victim of
31 abusive behavior,”.

32 SECTION 5. Section 4 of Chapter 151B of the General Laws is further amended by
33 inserting the following subsection: -

34 (1F) (a) For an employer, by itself or its agent, not to provide a reasonable
35 accommodation to an employee or prospective employee who is a victim of abusive behavior, if
36 the employee or prospective employee requests an accommodation related to the abusive
37 behavior; provided, however, that an employer is not required to provide an accommodation if
38 the employer can demonstrate that the accommodation would impose an undue hardship on the
39 employer's business.

40 (b) For an employer, by itself or its agent, to (i) discharge, or in any other manner
41 discriminate against, an employee for exercising the employee's rights under this subsection,
42 including requesting or using an accommodation under this subsection; (ii) refuse to hire, or in
43 any other manner discriminate against, a prospective employee for exercising the prospective
44 employee's rights under this subsection, including requesting or using an accommodation under
45 this subsection; (iii) require an employee or prospective employee who requests an
46 accommodation under this subsection to accept an accommodation that the employee or
47 prospective employee chooses not to accept if that accommodation is unnecessary to enable the
48 employee to perform the essential functions of the job; (iv) require an employee to take leave if a
49 reasonable accommodation may be provided that permits the employee to perform the essential
50 functions of the job without undue hardship to the employer's business; or (v) make
51 preemployment inquiry of a prospective employee as to whether the prospective employee will
52 require a reasonable accommodation under this subsection, unless the prospective employee first
53 voluntarily discloses to the employer, or employer's agent, a situation that would qualify the
54 prospective employee for a reasonable accommodation under this section.

55 (c) As used in this subsection, the following words shall have the following meanings
56 unless the context clearly requires otherwise:

57 “Accommodation” means a temporary or permanent adjustment to a job structure or
58 schedule, workplace facility, or work requirement that enables an employee who is a victim of
59 abusive behavior, or whose family member is a victim of abusive behavior, to be safe or to
60 address issues directly related to the abusive behavior, including but not limited to (i) more
61 frequent or longer paid or unpaid breaks; (ii) transfers, reassignments, or schedule changes; (iii)
62 changing a work phone number, email address, or any other work contact, electronic or
63 otherwise; (iv) installing or changing locks or work access mechanisms; (v) assisting with
64 documentation of the abusive behavior; (vi) implementing safety procedures; or (vii) prohibiting
65 the perpetrator of the abusive behavior from being on the workplace property or limiting the
66 perpetrator’s access to the workplace property or portion thereof where the employee works;
67 provided, however, that an employer shall not be required as part of providing a reasonable
68 accommodation to discharge or transfer another employee or promote an employee who is not
69 able to perform the essential functions of the job with or without a reasonable accommodation.

70 “Undue hardship” shall mean an action requiring significant difficulty or expense;
71 provided, however, that the employer shall have the burden of proving undue hardship; provided
72 further, that in making a determination of undue hardship, the following factors shall be
73 considered: (i) the nature and cost of the needed accommodation; (ii) the overall financial
74 resources of the employer; (iii) the overall size of the business of the employer with respect to
75 the number of employees and the number, type and location of its facilities; and (iv) any other
76 impact of the reasonable accommodation on the employer’s business.

77 (d) Upon the employer’s receipt of a request from an employee or prospective employee
78 for an accommodation under this subsection, the employee or prospective employee and the

79 employer shall engage in a timely, good faith, and interactive process to determine an effective,
80 reasonable accommodation.

81 (e) All employers will provide written notice to their employees of the right to be free
82 from discrimination due to status as a victim of abusive behavior and of the right to a reasonable
83 accommodation related to the abusive behavior. Such notice may be provided in a handbook,
84 pamphlet, or other means of notice regularly used by the employer. In addition, all employers
85 will provide such notice to (i) all new employees at the beginning of their employment and (ii)
86 any employee or prospective employee who informs the employer that the employee, or
87 prospective employee or family member of the employee or prospective employee, is a victim of
88 abusive behavior not more than five days after the employer is so informed.

89 (f) Subject to appropriation, the commission shall develop courses of instruction and
90 conduct public education efforts as necessary to inform employers, employees, and employment
91 agencies, and, to the extent possible, the general population, about the rights and responsibilities
92 established under this subsection not more than 180 days after the appropriation. Employers are
93 encouraged to conduct an education and training program for new employees and members
94 within one year of commencement of employment that includes information on the nature and
95 extent of abusive behavior, issues of privacy and confidentiality, and the availability of
96 reasonable accommodations. Employers are encouraged to conduct additional training for new
97 supervisory and managerial employees within one year of commencement of employment that
98 includes information on the nature and extent of abusive behavior, issues of privacy and
99 confidentiality, and the availability of reasonable accommodations.

100 (g) This subsection shall not be construed to preempt, limit, diminish, or otherwise affect
101 any other law relating to leave or to abusive behavior, provided, however, that to the extent the
102 reasonable accommodation requested pursuant to this section is a leave of absence, that leave
103 need not exceed the amount of leave permitted under Section 52E of Chapter 149.

104 (h) An employer may require any employee or prospective employee requesting an
105 accommodation under this subsection to provide documentation evidencing that the employee,
106 the prospective employee, or a family member of the employee or the prospective employee is a
107 victim of abusive behavior; provided, however, that an employer may not require the employee
108 or prospective employee to produce, but may consider, documentation concerning the reasonable
109 accommodation itself, including its type, form, scope, or duration; provided further, that an
110 employer shall not require the employee or prospective employee to show evidence of an arrest,
111 conviction, or other law enforcement documentation for such abusive behavior. The employee
112 or prospective employee shall provide such documentation to the employer within a reasonable
113 period after the employer requests such documentation, such reasonable period not to be shorter
114 than 30 days. The employer must provide a reasonable accommodation in a timely manner and
115 may not delay providing reasonable accommodation pending receipt of the documentation;
116 provided that if the employee or prospective employee requests that the accommodation begin
117 before such documentation can be provided, the employee or prospective employee shall provide
118 the documentation to the employer within 30 days of requesting the accommodation. The
119 employer may periodically require the employee to provide documentation showing continued
120 need for any temporary accommodation, but no more often than every six months or when the
121 employer learns of a significant change in the situation that necessitated the accommodation. The
122 provision of any documentation provided to an employer under this paragraph does not waive or

123 diminish the confidential or privileged nature, if any, of communications between a victim of
124 abusive behavior and any health care provider, clergy member, or other professional or counselor
125 whose documentation is provided to the employer pursuant to this paragraph (h).

126 The employer may maintain any documentation provided under this paragraph only in a
127 separate, confidential file and only for as long as required for the employer to make a
128 determination as to whether the employee is entitled to a reasonable accommodation under this
129 subsection.

130 The employee or prospective employee shall satisfy the documentation requirement by
131 providing to the employer any one of the documents listed in Section 52E of Chapter 149, but an
132 employer may not require the employee or prospective employee to provide a specific type of
133 documentation from among the listed documents.

134 (i) An employee or prospective employee requesting an accommodation under this
135 subsection is not required to produce any documentation to, or discuss any information with, the
136 employer that would in any way compromise the safety of the victim of the abusive behavior,
137 and an employer is prohibited from requiring any such production or disclosure except to the
138 extent such documentation or information is necessary to provide or effectuate the
139 accommodation, to protect the safety of the employee or others employed at the workplace, or to
140 enable the employer to satisfy legal obligations.

141 (j) An employer shall maintain the confidentiality of all documentation and information
142 provided by the employee or prospective employee related to the abusive behavior, including
143 that the employee, prospective employee, or employee's family member is a victim of abusive
144 behavior or that the employee or prospective employee has requested or obtained a reasonable

145 accommodation under this subsection, except under the following conditions: (i) the employee or
146 prospective employee requests or consents in writing that such documentation or information be
147 disclosed; (ii) the employer is ordered by a court of competent jurisdiction or administrative
148 agency to disclose such documentation or information; (iii) disclosure is otherwise required by
149 applicable federal or state law; (iv) disclosure is required in the course of an investigation
150 authorized by law enforcement, including, but not limited to, an investigation by the attorney
151 general; or (v) disclosure is necessary to protect the safety of the employee or others employed at
152 the workplace or to provide or effectuate the accommodation.

153 (k) No employer shall (i) coerce, interfere with, restrain, or deny the exercise of, or any
154 attempt to exercise, any rights provided under this subsection or (ii) make reasonable
155 accommodations requested or taken hereunder contingent upon whether or not the employee,
156 prospective employee, or victim of the abusive behavior maintains contact with the alleged
157 abuser.

158 SECTION 6. Section 52E of Chapter 149 of the General Laws is hereby amended by
159 striking out subsection (a) in its entirety and thereby replacing it with the following subsection:

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

162 “Abusive behavior,” (i) any behavior constituting domestic violence; (ii) stalking in
163 violation of Section 43 of Chapter 265; (iii) sexual assault, which shall include a violation of
164 Sections 13B, 13B½, 13B¾, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24, 24B, 26D, 50 or
165 51 of Chapter 265 or Sections 2, 3, or 35A of Chapter 272; or (iv) kidnapping in violation of the
166 third paragraph of Section 26 of Chapter 265.

167 “Domestic violence,” abuse, as defined in Section 1 of Chapter 209A, from an adult or
168 minor family or household member as defined in Section 1 of Chapter 209A.

169 “Prospective employee”, a “prospective employee” as defined in Section 1 of Chapter
170 151B.

171 “Health care”, medical health care, mental health care, substance abuse services, hospital
172 care, dental health care, rehabilitative services and other similar services.

173 SECTION 7. Subsection (b)(ii) of Section 52E of Chapter 149 of the General Laws is
174 hereby amended, after the word “attention”, by inserting the following: - “or other health care,”.

175 SECTION 8. Subsection (d) of Section 52E of Chapter 149 of the General Laws is hereby
176 amended by inserting, in the first sentence, after the phrase “safety of an employee”, the
177 following phrase: - “or family member of the employee,” and by striking out the figure “(7)” and
178 thereby replacing it with the figure “(8)”.

179 SECTION 9. Subsection (e) of Section 52E of Chapter 149 of the General Laws is hereby
180 amended by striking out the subsection in its entirety and replacing it with the following
181 subsection: -

182 (e) An employer may require an employee or prospective employee requesting leave
183 under this section to provide documentation evidencing that the employee, prospective
184 employee, or family member of the employee or prospective employee is a victim of abusive
185 behavior and that the leave taken is consistent with the conditions of clauses (i) to (iii), inclusive,
186 of subsection (b); provided, however, that an employer shall not require an employee or
187 prospective employee to show evidence of an arrest, conviction or other law enforcement

188 documentation for such abusive behavior. An employee or prospective employee shall provide
189 such documentation to the employer within a reasonable period after the employer requests
190 documentation relative to the employee's absence. An employee or prospective employee shall
191 satisfy this documentation requirement by providing any one of the following documents to the
192 employer, and the employer may not require the employee or prospective employee to provide a
193 specific type of documentation from among the following documents.

194 (1) A protective order, or order of equitable relief or other documentation, issued by a
195 court of competent jurisdiction as a result of abusive behavior, including but not limited to an
196 order issued pursuant to Chapter 209A or Chapter 258E.

197 (2) A document under the letterhead of the court, public agency, or social service, health
198 care, or other service provider which the victim of the abusive behavior attended for the purposes
199 of acquiring assistance as it relates to the abusive behavior.

200 (3) A police report or statement of a victim or witness provided to police, including a
201 police incident report, documenting the abusive behavior.

202 (4) Documentation that the perpetrator of the abusive behavior has been convicted of, has
203 been adjudicated a juvenile delinquent by reason of, or has admitted to sufficient facts to support
204 a finding of guilt of any offense constituting such abusive behavior.

205 (5) Documentation of health care treatment as a result of the abusive behavior.

206 (6) A sworn statement, signed under the penalties of perjury, provided by a counselor,
207 social worker, health care worker, member of the clergy, shelter worker, legal advocate or other

208 professional who has assisted the victim of the abusive behavior in addressing the effects of the
209 abusive behavior.

210 (7) A sworn statement, signed under the penalties of perjury, from the victim of the
211 abusive behavior attesting to the abusive behavior.

212 (8) Any other form of documentation or relevant evidence that reasonably corroborates or
213 certifies that the employee, prospective employee, or family member of the employee or
214 prospective employee is a victim of abusive behavior.

215 Any documentation provided to an employer under this section may be maintained by the
216 employer only in a separate, confidential file and only for as long as required for the employer to
217 make a determination as to whether the employee is eligible for leave under this section. The
218 provision of any documentation to an employer under this paragraph does not waive or diminish
219 the confidential or privileged nature of communications between the victim of the abusive
220 behavior and any of the categories of professionals listed in this paragraph.

221 An employee or prospective employee requesting leave under this section is not required
222 to produce any documentation to, or discuss any information with, the employer that would in
223 any way compromise the safety of the victim of the abusive behavior, and an employer is
224 prohibited from requiring any such production or disclosure except to the extent such
225 documentation or information is necessary to provide or effectuate the leave, to protect the safety
226 of the employee or others employed at the workplace, or to enable the employer to satisfy legal
227 obligations.

228 SECTION 10. Subsection (f)(i) of Section 52E of Chapter 149 of the General Laws is
229 hereby amended by inserting, after the word “employee”, the words “or prospective employee;”
230 and inserting, after the word “workplace”, the words “or to provide or effectuate the leave”.

231 SECTION 11. Subsection (g) of Section 52E of Chapter 149 of the General Laws is
232 hereby amended by striking the word “taking” and thereby replacing it with the word “seeking”.

233 SECTION 12. Subsection (h) of Section 52E of Chapter 149 of the General Laws is
234 hereby amended by inserting, after the word “victim”, the phrase “of the abusive behavior”, and
235 after the words “this section or” by striking out the word “to”.

236 SECTION 13. Subsection (i) of Section 52E of Chapter 149 of the General Laws is
237 hereby amended by inserting, after the word “section”, the phrase “or refuse to hire, or in any
238 other manner discriminate against a prospective employee for exercising the prospective
239 employee’s rights under this section.”

240 SECTION 14. Subsection (g1/2) of Section 1 of Chapter 151A of the General Laws is
241 hereby amended by striking out the subsection in its entirety and replacing it with the following
242 subsection : “Domestic violence,” abuse, as defined in Section 1 of Chapter 209A, from an adult
243 or minor family or household member, as defined in Section 1 of Chapter 209A.

244 For the purposes of this chapter, an individual may demonstrate the existence of domestic
245 violence by providing to the employer any one of the documents listed in Section 52E of Chapter
246 149. All documentation or evidence of domestic violence provided to the department, including
247 the individual's statement and corroborating evidence, shall not be disclosed by the department
248 unless consent for disclosure is given by the individual.