

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Sean Garballey and Simon Cataldo

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 updating terminology and investigative practices related to the protection of persons with disabilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/8/2025</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>1/16/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act updating terminology and investigative practices related to the protection of persons with disabilities.

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 19C of the General Laws, as appearing in the 2022
2 Official Edition is hereby amended by striking out section 1, and inserting in place thereof the
3 following section:-

4 Section 1. As used in this chapter, the following words shall have the following meanings
5 unless the context requires otherwise:-

6 “Abuse”, an act or omission of a caretaker that results in serious physical or serious
7 emotional injury to a disabled person; provided, however, that no person shall be considered to
8 be abused for the sole reason that such person is being furnished or relies upon treatment in
9 accordance with the tenets and teachings of a church or religious denomination by a duly
10 accredited practitioner of the church or religious denomination. As used in this chapter, the term
11 abuse includes abuse per se.

12 “Abuse per se”, an act or omission of a caretaker that, based upon its circumstances, is
13 determined by the commission to be in and of itself abusive as published by regulation,
14 regardless of the manifestation of a serious physical or serious emotional injury to a person with
15 a disability, including an act or omission that constitutes or results in any of the following: (i)
16 Sexual abuse of a person with a disability; (ii) The withholding of adaptive aids used by a person
17 with a disability, provided that said withholding is unrelated to safety, care or treatment of the
18 person with a disability; (iii) A pattern of touching neither required nor appropriate for tending to
19 the safety and welfare of a person with a disability; or (iv) The intentional, wanton, or reckless
20 application of a physical force on a person with a disability in a manner that inflicts physical pain
21 or serious emotional injury as determined by an evaluation of the totality of the circumstances.

22 “Caretaker”, a parent, guardian or other person or agency responsible for the health or
23 welfare of a person with a disability, whether in the same home as the person with a disability,
24 the home of a relative, a foster home or any other location where the caretaker renders assistance.

25 “Commission”, the disabled persons protection commission established under section 2.

26 “Disabled Person”, a person between the ages of 18 to 59, inclusive, who is a person with
27 an intellectual disability or a person with a developmental disability as defined under section 1 of
28 chapter 123B or who is otherwise mentally or physically disabled and, as a result of that mental
29 or physical disability, is wholly or partially dependent on another to meet that person’s daily
30 living needs. The term “person with a disability” and “disabled person” may be used
31 interchangeably in this chapter.

32 “Mandated reporter”, any physician, medical intern, hospital personnel engaged in the
33 examination, care or treatment of persons, medical examiner, dentist, psychologist, nurse,

34 chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator,
35 guidance or family counselor, day care worker, probation officer, social worker, foster parent,
36 police officer, firefighter, paramedic, emergency medical technician, animal control officer, or
37 person employed to provide assistance with a daily living need for a person with a disability
38 who, in their professional capacity, shall have reasonable cause to believe that a person with a
39 disability is suffering from a reportable condition.

40 “Recommendation”, a statement contained in an investigation report prepared pursuant to
41 this chapter that sets forth specific action intended by the investigator to protect a particular
42 person with a disability or similarly situated persons with disabilities from further abuse or risk
43 of abuse and that responds to the specific protective needs of the person with a disability or
44 persons with disabilities.

45 “Reportable condition”, a serious physical or serious emotional injury sustained by a
46 person with a disability and for which there is reasonable cause to believe that the injury resulted
47 from abuse; or reasonable cause to believe that abuse per se exists.

48 “State agency”, an agency of the commonwealth that provides services or treatment to
49 persons with disabilities, including a private entity providing such services or treatment pursuant
50 to a contract, license or agreement with an agency of the commonwealth.

51 SECTION 2. Said section 2 of said chapter 19C is hereby amended by striking out the
52 third, fourth, and fifth sentences and inserting in place thereof the following sentences:- The
53 commission shall consist of 3 members to be appointed by the governor, 1 of whom the governor
54 shall designate as chair. Members of the commission shall serve for a term of 5 years.

55 SECTION 3. Said section 2 of chapter 19C is hereby further amended by striking out the
56 ninth sentence, and inserting in place thereof the following sentence:- A person appointed to fill
57 a vacancy occurring other than by the expiration of a term of office shall be appointed for the
58 unexpired term of the member succeeded.

59 SECTION 4. Said section 3 of said chapter 19C is hereby amended by striking out, in line
60 22, the words “other state”.

61 SECTION 5. Said section 3 of said chapter 19C is hereby further amended by striking
62 out, in line 27, the word “nine” and inserting in place thereof the following words:- 5 or section
63 9.

64 SECTION 6. Said section 3 of said chapter 19C is hereby further amended by striking
65 out, in lines 31 and 32, the words “the provisions of chapters sixty-six and sixty-six A” and
66 inserting in place thereof the following words:- chapters 66 and 66A; provided, however, that,
67 except as otherwise provided in this chapter, information that is created, collected, used,
68 maintained or disseminated pursuant to this chapter and that is confidential or personally
69 identifiable information pursuant to state or federal law shall not be a public record pursuant to
70 clause Twenty-six of section 7 of chapter 4 or chapter 66.

71 SECTION 7. The first paragraph of said section 3 of said chapter 19C is hereby amended
72 by striking clauses (h) and (i) and inserting in place thereof the following 2 clauses:-

73 (h) to establish within the commission a special investigative unit that shall have sole
74 responsibility for the initial evaluation or investigation of all reports of abuse received by the
75 commission in connection with which there is an allegation of criminal conduct; provided,

76 however, that the colonel of state police shall assign not less than 5 state police officers to the
77 special investigative unit; and

78 (i) to promulgate rules and regulations establishing procedures to exclude personally
79 identifiable information regarding the subjects of investigations and to carry out the
80 responsibilities of this chapter in such a way as to disclose as little personally identifiable
81 information as possible.

82 SECTION 8. The first paragraph of said section 4 of said chapter 19C is hereby amended
83 by striking out clauses (b) and (c) and inserting in place thereof the following 3 clauses:-

84 (b) refer immediately any such report that alleges the occurrence of abuse of a person
85 with a disability whose caretaker is a state agency to the state agency within the executive office
86 of health and human services that is the primary service providing agency for the disability
87 manifested by the person with a disability; provided, however, that as assigned by the
88 commission, the commission or the referral agency subject to the oversight of the commission
89 shall investigate the abuse as provided in section 5; and provided further, that, if a commission
90 investigation is being conducted, the referral agency shall take reasonable steps to avoid
91 unnecessary, unwarranted or counterproductive duplication of the commission's investigation
92 through an internal investigation or inquiry by the referral agency and shall, when there is
93 duplication, utilize the commission's investigation in lieu of an internal investigation or inquiry.

94 (c) refer immediately any such report that alleges the occurrence of abuse of a person
95 with a disability whose caretaker is not a state agency to the agency within the executive office
96 of health and human services that the commission determines, based on the person's reported
97 disability, would most likely provide, license an entity to provide or contract with or enter into an

98 agreement to provide services or treatment to the person with a disability; provided, however,
99 that, as assigned by the commission, the commission or the assigned referral agency subject to
100 the oversight of the commission shall investigate such abuse as provided in section 5.

101 (d) in accordance with subsections (b) and (c), refer immediately reports that the
102 commission determines present imminent risk of substantial harm to a person with a disability,
103 regardless of whether any serious injury is alleged, for the provision of protective services.

104 SECTION 9. Said section 4 of said chapter 19C is hereby further amended by striking
105 out, in line 40, the first time it appears, the word “and” and inserting in place thereof the
106 following word:- or.

107 SECTION 10. Said section 4 of said chapter 19C is hereby further amended by striking
108 out, in lines 40 to 42, inclusive, the words “and, upon completion of such evaluation and
109 investigation, shall report the results of such evaluation and investigation to the commissioners
110 who” and inserting in place thereof the following word: . Upon completion of such evaluation or
111 investigation, the special investigative unit shall report the results of such evaluation or
112 investigation to the commission that.

113 SECTION 11. Said section 4 of said chapter 19C is hereby further amended by inserting
114 after the word “initial,” in line 46, the following words:- evaluation or.

115 SECTION 12. Said section 4 of said chapter 19C is hereby further amended by striking
116 out, in lines 56 and 57, the words “clients of state agencies or of contract providers” and
117 inserting in place thereof the following words:- persons with disabilities.

118 SECTION 13. Said section 5 of said chapter 19C is hereby further amended by striking
119 out, in lines 2 to 4, inclusive, the words “, the general counsel, or a department within the
120 executive office of health and human services”.

121 SECTION 14. Said section 5 of said chapter 19C is hereby further amended by striking
122 out, in lines 7 and 8, the words “counsel or department of mental health or department of public
123 health” and inserting in place thereof the following words:- department of developmental
124 services, department of mental health or MassAbility.

125 SECTION 15. Said section 5 of said chapter 19C is hereby further amended by striking
126 out, in line 12, the words “the disabled person’s residence and day program, if any” and inserting
127 in place thereof the following words:- any sites relevant to the alleged abuse, which may include,
128 but shall not be limited to, the residence and day program of the person with a disability.

129 SECTION 16. Said section 5 of chapter 19C is hereby further amended by inserting, in
130 line 14, after the word “injuries” the following words:- or abuse per se.

131 SECTION 17. Said section 5 of said chapter 19C is hereby further amended by striking
132 out, in lines 17 to 19, inclusive, the words “, to the general counsel and to the department of
133 mental health and the department of public health” and inserting in place thereof the following
134 words:- and to the department of developmental services, the department of mental health or
135 MassAbility, as appropriate.

136 SECTION 18. Said section 5 of said chapter 19C is hereby further amended by striking
137 out, in line 22, the word “ten” and inserting in place thereof the following words:- 10, or the
138 employer of the mandated reporter.

139 SECTION 19. Said section 5 of said chapter 19C is hereby further amended by inserting
140 after the word “the”, in line 24, the first time it appears, the following word:- assigned referral.

141 SECTION 20. Said section 5 of said chapter 19C, as so appearing, is hereby further
142 amended by striking out, in lines 43 and 44, the words “the facility named in the report, if any,”
143 and inserting in place thereof the following words:- any sites relevant to the report.

144 SECTION 21. Said section 5 of said chapter 19C is hereby further amended by striking
145 out, in line 45, the words “residents or clients in the same facility” and inserting in place thereof
146 the following words:- persons with disabilities.

147 SECTION 22. Said section 5 of said chapter 19C is hereby further amended by striking
148 out, in lines 46 and 47, the words “, the general counsel, the department of mental health and the
149 department of public health within” and inserting in place thereof the following words:- and to
150 the department of developmental services, the department of mental health or MassAbility as
151 appropriate, within.

152 SECTION 23. Said section 5 of said chapter 19C is hereby further amended by striking
153 out, in line 52, the words “, the general counsel, the attorney general”.

154 SECTION 24. Said section 5 of said chapter 19C is hereby further amended by striking
155 out, in line 54, the words “six of chapter thirty-eight” and inserting in place thereof the following
156 words:- 3 of chapter 38.

157 SECTION 25. Said section 5 of said chapter 19C is hereby further amended by striking
158 out, in line 55, the word “ten” and inserting in place thereof the following words:- 10 business.

159 SECTION 26. Said section 5 of said chapter 19C is hereby further amended by striking
160 out, in lines 56, 58 and 61, the word “misconduct” and inserting in place thereof, in each
161 instance, the following word:- abuse.

162 SECTION 27. Said section 5 of said chapter 19C is hereby further amended by striking
163 out, in lines 59 and 60, the words “ respond in writing prior to the issuance of said report” and
164 inserting in place thereof the following words:- petition for review.

165 SECTION 28. Said section 5 of said chapter 19C is hereby further amended by striking
166 out, in line 67, the word “shall” and inserting in place thereof the following words:- may refer
167 any matters for which there is reason to believe that a violation of any statute, regulation or rule
168 has occurred to the agency of the commonwealth that has jurisdiction over the alleged violation.
169 In addition, the commission, notwithstanding any provisions of chapter 66A regarding personal
170 data to the contrary, shall.

171 SECTION 29. Said section 5 of said chapter 19C is hereby further amended by striking
172 out, in lines 77 to 79, inclusive, the words “or (c) a disabled person has suffered serious bodily
173 injury as a result of a pattern of repetitive actions or inactions by a caretaker” and inserting in
174 place thereof the following words:- (c) a person with a disability has suffered serious bodily
175 injury as a result of a pattern of repetitive acts or omissions by a caretaker; or (d) any other
176 criminal offense has occurred that has caused harm to a person with a disability.

177 SECTION 30. Said chapter 19C is hereby further amended by striking out section 6 and
178 inserting in place thereof the following section:-

179 Section 6. The commission, acting through agencies within the executive office of health
180 and human services designated by the commission to provide protective services and as
181 necessary to prevent further abuse in cases investigated, shall:

182 (i) furnish protective services to a person with a disability with the consent of the person
183 or the person's guardian;

184 (ii) petition the court for appointment of a conservator or guardian or for issuance of an
185 emergency order for protective services as provided in section 7; or

186 (iii) furnish protective services to a person with a disability on an emergency basis as
187 provided in said section 7.

188 SECTION 31. Section 7 of said chapter 19C is hereby amended by striking out, in lines 1
189 and 2, the words "the general counsel, the department of mental health or the department of
190 public health," and inserting in place thereof the following words:- the department of
191 developmental services, the department of mental health or the MassAbility.

192 SECTION 32. Said section 7 of said chapter 19C is hereby further amended by striking
193 out, in lines 5 and 6, 9, 33 and 34, 37 and 62, the words " , counsel or department" and inserting
194 in place thereof, in each instance, the following words:- or agency.

195 SECTION 33. Section 9 of said chapter 19C is hereby amended by striking out clause
196 (d), as so appearing, and inserting in place thereof the following clause:-

197 (d) refer any matters for which there is reason to believe that abuse has occurred by a
198 state agency or its employee to the agency of the commonwealth funding, contracting or under

199 agreement with, or licensing such party for termination of the funding, agreement, contract, or
200 license or for such other action that the agency of the commonwealth deems appropriate.

201 SECTION 34. Section 10 of said chapter 19C is hereby amended by striking out, in line
202 3, the word “orally”.

203 SECTION 35. Section 10 of said chapter 19C is hereby further amended by striking out,
204 in lines 4 and 5, the words “and shall report in writing within forty-eight hours after such oral
205 report”.

206 SECTION 36. Said section 10 of said chapter 19C is hereby further amended by striking
207 out, in lines 10 and 11, the words “six of chapter thirty-eight” and inserting in place thereof the
208 following words:- 3 of chapter 38.

209 SECTION 37. Said section 10 of said chapter 19C is hereby further amended by inserting
210 after the word “file”, in line 12, the following word:- a.

211 SECTION 38. Said section 10 of said chapter 19C is hereby further amended by striking
212 out, in lines 27 and 28, the words “in any civil action arising out of a report made pursuant to this
213 chapter” and inserting in place thereof the following words:- participation in an investigation,
214 hearing, or other proceeding conducted pursuant to this chapter.

215 SECTION 39. Said section 10 of said chapter 19C is hereby further amended by striking
216 out, in lines 32 and 33, the words “oral and written reports, who fails to do so,” and inserting in
217 place thereof the following words:- a report and who fails to do so.

218 SECTION 40. Section 11 of said chapter 19C is hereby amended by striking out, in line
219 6, the words “the general counsel or”.

220 SECTION 41. The third paragraph of said section 11 of said chapter 19C, as so
221 appearing, is hereby amended by inserting after the first sentence the following sentence:- The
222 commission may investigate any allegation under this section pursuant to section 5 or 9.

223 SECTION 42. Section 12 of said chapter 19C is hereby amended by striking out, in lines
224 10 and 11, the words “, in consultation with the secretary of health and human services,”.

225 SECTION 43. Said section 12 of said chapter 19C is hereby further amended by striking
226 out, in line 11, the word “formal”.

227 SECTION 44. Said section 12 of said chapter 19C is hereby further amended by striking
228 out, in lines 12 and 13, the words “, in consultation with the secretary of health and human
229 services,”.

230 SECTION 45. Said section 12 of said chapter 19C is hereby further amended by striking
231 out, in line 13, the words “a formal” and inserting in place thereof the following word:- an.

232 SECTION 46. Section 13 of said chapter 19C is hereby amended by striking the title,
233 inserting in place thereof the following title:- Notification by caretaker agency of the death of a
234 person with a disability.

235 SECTION 47. Said section 13 of said chapter 19C is hereby further amended by striking
236 out, in line 4, the word “orally”.

237 SECTION 48. Said section 13 of said chapter 19C is hereby further amended by striking
238 out, in lines 5, 6 and 7, the following words “, and shall forward to the commission and local law
239 enforcement officials a written report of such death”.

240 SECTION 49. Section 14 of said chapter 19C is hereby amended by striking out, in lines
241 2, 3, and 4, the words “the general counsel, or a department within the executive office of health
242 and human services” and inserting in place thereof the following words:- department of
243 developmental services, department of mental health, or the MassAbility,.

244 SECTION 50. Section 15 of said chapter 19C is hereby amended by striking the
245 definition for “employer” and inserting in place thereof the following definition:-

246 “Employer”, an entity that provides services or treatment to persons with intellectual or
247 developmental disabilities pursuant to (i) a contract or agreement with the department; (ii)
248 funding administered by the department; (iii) a license issued pursuant to section 15 or 15A of
249 chapter 19B; or (iv) a contract with MassHealth to provide day habilitation services subject to
250 130 CMR 419.000.

251 SECTION 51. Section 15 of said chapter 19C is hereby further amended by inserting, in
252 line 17, after the term “or” as first appearing, the following word:- serious.

253 SECTION 52. Section 15 of said chapter 19C is hereby further amended, by striking, in
254 line 28, the word “respond”, and inserting in place thereof the following words:- petition for
255 review.

256 SECTION 53. Section 15 of said chapter 19C is hereby further amended, by striking out,
257 in lines 84 and 85, the words “including the records of its proceedings” and inserting in place
258 thereof the following words:- including the records of the registrable abuse investigation and
259 records of any hearing or other proceeding at the division or judicial appeal, including the
260 personally identifying information of all parties and witnesses.

261 SECTION 54: Section 15 of said Chapter 19C is hereby further amended by inserting
262 after the word “shall”, in line 85, the following words:- be confidential and shall.

263 SECTION 55: Section 15 of said Chapter 19C is hereby further amended, by inserting
264 after the word “registry”, in lines 88 and 94, in each instance, the following words:-and any
265 registrable abuse investigation or proceeding at the division or judicial appeal.