SENATE DOCKET, NO. 930 FILED ON: 1/15/2025

SENATE . . . . . No. 139

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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:	
John F. Keenan	*Norfolk and Plymouth*	
Michael J. Barrett	*Third Middlesex*	*2/6/2025*
Alyson M. Sullivan-Almeida	*7th Plymouth*	*2/6/2025*
Jacob R. Oliveira	*Hampden, Hampshire and Worcester*	*2/9/2025*
James B. Eldridge	*Middlesex and Worcester*	*2/10/2025*
James K. Hawkins	*2nd Bristol*	*2/11/2025*
Michael O. Moore	*Second Worcester*	*2/20/2025*
Patrick M. O'Connor	*First Plymouth and Norfolk*	*2/21/2025*
Manny Cruz	*7th Essex*	*2/26/2025*
Bruce E. Tarr	*First Essex and Middlesex*	*2/27/2025*
Michael D. Brady	*Second Plymouth and Norfolk*	*2/27/2025*
Hannah Kane	*11th Worcester*	*3/20/2025*
Bradley H. Jones, Jr.	*20th Middlesex*	*4/5/2025*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*4/5/2025*
Mike Connolly	*26th Middlesex*	*4/8/2025*
Angelo J. Puppolo, Jr.	*12th Hampden*	*4/15/2025*
Steven S. Howitt	*4th Bristol*	*4/15/2025*

Paul R. Feeney	*Bristol and Norfolk*	*4/28/2025*
Tackey Chan	*2nd Norfolk*	*5/18/2025*
John J. Marsi	*6th Worcester*	*6/10/2025*

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SENATE . . . . . No. 139

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 139) of John F. Keenan, Michael J. Barrett, Alyson M. Sullivan-Almeida, Jacob R. Oliveira and other members of the General Court for legislation to update terminology and investigative practices related to the protection of persons with disabilities. Children, Families and Persons with Disabilities.

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:

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

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

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

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

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

"Commission", the disabled persons protection commission established under section 2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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