SENATE DOCKET, NO. 1639 FILED ON: 1/16/2025

SENATE . . . . . No. 1718

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 employers to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Joan B. Lovely	*Second Essex*	
Vanna Howard	*17th Middlesex*	*1/22/2025*
Hannah Kane	*11th Worcester*	*1/22/2025*
Paul W. Mark	*Berkshire, Hampden, Franklin and Hampshire*	*1/22/2025*
James K. Hawkins	*2nd Bristol*	*1/22/2025*
John F. Keenan	*Norfolk and Plymouth*	*1/29/2025*
Michael D. Brady	*Second Plymouth and Norfolk*	*1/31/2025*
Sal N. DiDomenico	*Middlesex and Suffolk*	*1/31/2025*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*1/31/2025*
Susannah M. Whipps	*2nd Franklin*	*2/7/2025*
Paul R. Feeney	*Bristol and Norfolk*	*2/13/2025*
Thomas M. Stanley	*9th Middlesex*	*2/13/2025*
John C. Velis	*Hampden and Hampshire*	*2/21/2025*
William J. Driscoll, Jr.	*Norfolk, Plymouth and Bristol*	*2/25/2025*
Manny Cruz	*7th Essex*	*2/26/2025*
Nick Collins	*First Suffolk*	*3/4/2025*

Dylan A. Fernandes	*Plymouth and Barnstable*	*3/10/2025*
Robyn K. Kennedy	*First Worcester*	*3/10/2025*
Liz Miranda	*Second Suffolk*	*3/18/2025*
Patrick M. O'Connor	*First Plymouth and Norfolk*	*3/21/2025*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*4/4/2025*
Pavel M. Payano	*First Essex*	*6/4/2025*

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SENATE . . . . . No. 1718

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1718) of Joan B. Lovely, Vanna Howard, Hannah Kane, Paul W. Mark and other members of the General Court for legislation to require health care employers to develop and implement programs to prevent workplace violence. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1539* OF 2023-2024.]

The Commonwealth of Massachusetts

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

An Act requiring health care employers 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, as appearing in the 2022 Official Edition, is hereby amended by adding the following section:-

Section 245. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"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 employer", any individual, partnership, association, corporation, trust or any person or group of persons operating a health care facility.

"Health care facility", a hospital, licensed under section 51, the teaching hospital of the University of Massachusetts medical school, a medium-security state correctional facility for male inmates located in Plymouth county that is operated and maintained by a private company under contract with the department of correction, or any state acute care facility, non-acute care facility, continuing care facility and group homes operated, funded or subject to oversight by the department of public health, the department of mental health or the department of developmental services except a: (i) nursing home; (ii) rest home; (iii) clinic; (iv) mobile or portable clinic; (v) mobile or portable clinic satellite; (vi) certified home health agency; (vii) adult day health; (viii) hospice; (ix) hospice inpatient satellite; (x) ambulatory surgical center; (xi) renal dialysis; (xii) outpatient physical therapy and speech pathology; and (xiii) temporary nursing agency; provided that, a facility with more than 1 license or that is licensed to provide multiple services, shall be considered a health care facility if the facility is licensed in at least 1 of the included categories.

"Workplace Violence", conduct at the work site that is: (i) an unpermitted or harmful touching of another person; (ii) an attempt or act to use some degree of physical force on another person; or (iii) engaging in conduct that could be reasonably perceived as an intent to touch without permission, use immediate physical force or injure a particular person now or in the future, that if carried out would constitute a crime, and causes another person to reasonably believe that the person has the intent and ability to carry out such conduct.

(b) Annually, each health care employer shall perform a facility specific risk assessment that includes, but is not limited to, the standards determined by the department and in

consultation with the office of health equity. The facility specific risk assessment shall be done in cooperation with the employees of the health care employer and any labor organization or organizations representing the employees, examining all factors, which may put any of the employees at risk of workplace violence. The factors shall include, but not be limited to: (i) working in public settings; (ii) guarding or maintaining property or possessions; (iii) working in high-crime areas; (iv) working late night or early morning hours; (v) working alone or in small numbers; (vi) uncontrolled public access to the workplace; (vii) working in public areas where people are in crisis; (viii) working in areas where a patient or resident may exhibit violent behavior; (ix) working in areas with known security problems; and (x) working with insufficient qualified staff in 1 or more position titles to address foreseeable risk factors.

(c) Based on the findings of the risk assessment in subsection (b), the health care employer shall develop and implement a program to minimize the danger of workplace violence to employees, 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 shall include, in addition to all employer training program policies, methods of reporting to appropriate public safety officials, bodies or agencies and processes necessary for the filing of criminal charges.

(d) Each health care employer shall develop a written violence prevention plan setting forth the employer's workplace violence prevention plan. The health care employer shall make the plan available to each employee and provide the health care facility plan to any of its employees upon written request. The health care employer shall provide upon written request the health care facility plan to any labor organization or organizations representing any of its employees. The plan shall include but not be limited to: (i) a list of those factors and

circumstances that may pose a danger to employees; (ii) a description of the methods that the health care employer will use to alleviate hazards associated with each factor; including, but not limited to, employee training and any appropriate changes in job design, staffing, security, equipment or facilities; (iii) a post-incident debriefing process with affected staff; and (iv) a description of the reporting and monitoring system.

(e) Each health care employer 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 assaulted staff action program that includes, but is not limited to, group crisis interventions, individual crisis counseling, staff victims' support groups, employee victims' family crisis intervention, peer-help and professional referrals.

(f) Any health care employer who violates any rule, regulation or requirement made by the department under authority hereof may, based on the reason for the violation and the discretion of the department, be punished by a fine of not more than $2,000 for each offense. The department or its representative or any aggrieved employee, any interested party or any officer of any labor union or association, whether incorporated or otherwise, may file a written complaint with the district court in the jurisdiction of which the violation occurs and shall promptly notify the attorney general in writing of such complaint. The attorney general, upon determination that there is a violation of any workplace standard relative to the protection of the occupational health and safety of employees or of any standard of requirement of licensure, may order any work site to be closed by way of the issuance of a cease and desist order enforceable in the appropriate courts of the commonwealth.

(g) No employee shall be penalized by a health care employer in any way as a result of such employee's filing of a complaint or otherwise providing notice to the department in regard to the occupational health and safety of such employee or their fellow employees exposed to workplace violence risk factors.

(h) Each health care employer shall submit a report annually, on a form prescribed by the commissioner of the department, of all incidents of workplace violence reported to the health care employer that occurred at the health care facility on an employee, an emergency medical technician, an ambulance operator or an ambulance attendant. The report shall be submitted to the department and the office of the district attorney for the county where the health care facility is located. Not more than 90 days after receiving the reports, the department shall make the aggregate data statewide and by county publicly available; provided that the department categorize the aggregate data by occupation and incident type.

SECTION 2. Chapter 149 of the General Laws is hereby amended by inserting after section 52E the following section:-

Section 52F. (a) For purposes of this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

"Employee", an individual employed by a health care employer.

"Health care employer", any individual, partnership, association, corporation or, trust or any person or group of persons operating a health care facility.

"Health care facility", a hospital, licensed under section 51, the teaching hospital of the University of Massachusetts medical school, a medium-security state correctional facility for

male inmates located in Plymouth county that is operated and maintained by a private company under contract with the department of correction, or any state acute care facility, non-acute care facility, continuing care facility and group homes operated, funded or subject to oversight by the department of public health, the department of mental health or the department of developmental services except a: (i) nursing home; (ii) rest home; (iii) clinic; (iv) mobile or portable clinic; (v) mobile or portable clinic satellite; (vi) certified home health agency; (vii) adult day health; (viii) hospice; (ix) hospice inpatient satellite; (x) ambulatory surgical center; (xi) renal dialysis; (xii) outpatient physical therapy and speech pathology; and (xiii) temporary nursing agency; provided that, a facility with more than 1 license or that is licensed to provide multiple services, shall be considered a health care facility if the facility is licensed in at least 1 of the included categories.

(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 which occurred in the line of duty and; (ii) the employee uses the leave 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 or other law enforcement official.

(c) An employee seeking leave under this section shall not have to use annual leave, vacation leave, personal leave or sick leave available to the employee, prior to requesting or taking leave under this section. (d) A health care employer may require an employee to provide documentation evidencing that the employee is 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 subsection (b). An employee shall provide such documentation to the health care employer within 5 business days after the health care employer requests documentation relative to the employee’s absence.

(e) An employee seeking leave from work pursuant to subsection (b) shall provide advance notice of the leave to the employer in accordance with the employer's leave policy; provided, however, that if an employee is absent on an unauthorized basis, the health care employer 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 unauthorized absence meets the criteria of subsection (b).

(f) All information related to the employee's leave taken pursuant to this section shall be kept confidential by the health care employer 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) required by 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 workplace.

(g) No health care employer shall require an employee 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.

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

(i) No health care employer shall discharge or in any other manner discriminate against an employee for exercising the employee's rights under this section. An employee who takes leave under this section shall not lose any employment benefit accrued prior to the date on which the leave taken under this section commenced as a result of taking said leave. Upon the employee's return from said leave, the employee shall be entitled to restoration to the employee's original job or to an equivalent position.

(j) Each health care employer shall post in a conspicuous place within the health care facility a notice prepared by the department indicating the rights and responsibilities provided by this section. The notice shall be issued in English, Spanish, Chinese, Haitian Creole, Italian, Portuguese, Vietnamese, Laotian, Khmer, Russian and any other language that is the primary language of at least 10,000 or ½ of one per cent of all residents of the commonwealth. The required workplace notice shall be in English and each language other than English which is the primary language of 5 or more employees or self-employed individuals of that workplace, if such notice is available from the department. Each health care employer shall notify each employee not more than 30 days from the beginning date of the employee's employment, the rights and responsibilities provided by this section, including those related to notification requirements and confidentiality.

(k) This section shall not be construed to exempt an employer 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. Section 13I of chapter 265 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following paragraphs:-

Whoever knowingly and intentionally commits an assault or an assault and battery on an employee, as defined in section 245 of chapter 111, while in the line of duty, 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 2 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

Any emergency medical technician, ambulance operator, ambulance attendant or a health care provider as defined in section 245 of chapter 111, who is the victim of assault or assault and battery at a health care facility, as such term is defined in said section 245, in the line of duty shall be given the option of providing the address of the health care facility where the assault or assault and battery occurred or of the labor organization in which they are a member in good standing. In instances where the address of the health care facility is used or labor organization to which the employee is a member in good standing, the health care facility or labor organization shall ensure that the individual receives any documents pertaining to the assault or assault and battery within 24 hours of receipt by the health care facility or labor organization. The health care facility or labor organization shall demonstrate that it has provided any and all documentation by obtaining a signature from the individual acknowledging receipt.

SECTION 4. Section 13I of Chapter 265 of the General Laws as appearing in the 2020 Official Edition, is hereby amended by striking out, in line 4, the words "treating or transporting a person".

SECTION 5. The commissioner of public health shall adopt rules and regulations within 180 days of enactment of this act necessary to implement and enforce the purposes of section 245 of chapter 111 of the General Laws.

SECTION 6. 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 Department of Mental Health continuing care system or similar treatment that do not require an arrest.