

HOUSE No. 01475

The Commonwealth of Massachusetts

PRESENTED BY:

Paul J. Donato

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 passage of the accompanying bill:

An Act relative to reciprocal benefits contracts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Ryan Fattman</i>	<i>18th Worcester</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Stephen Stat Smith</i>	<i>28th Middlesex</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>James Lyons, Jr.</i>	<i>18th Essex</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>

HOUSE No. 01475

By Mr. Paul J. Donato of Medford, petition (accompanied by bill, House, No. 01475) of Stephen Stat Smith and others relative to reciprocal benefits contracts. Joint Committee on Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to reciprocal benefits contracts.

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. Chapter 111 of the General Laws, as appearing in the 2004 Official Edition, is
2 hereby amended by inserting after Section 72Y the following section:--

3

4 Section 72Z. The reciprocal beneficiary (as defined in Section 1 of Chapter 209E) of a
5 patient in a health care facility shall have the right to visit the patient during normal visiting
6 hours, provided the patient does not object.

7 SECTION 2. Section 8 of Chapter 113 of the General Laws, as so appearing is hereby
8 amended by striking out in lines 24 to 30 inclusive the following:--

9 (1) the spouse,

10 (2) an adult son or daughter,

- 11 (3) either parent,
- 12 (4) an adult brother or sister,
- 13 (5) a guardian of the person of the decedent at the time of his death,
- 14 (6) any other person authorized or under obligation to dispose of the body.

15 And inserting in place thereof the following:--

- 16 (1) the spouse
- 17 (2) {the reciprocal beneficiary, as defined in Section 1 of Chapter 209E},
- 18 (3) an adult son or daughter,
- 19 (4) either parent,
- 20 (5) an adult brother or sister,
- 21 (6) a guardian of the person of the decedent at the time of his death,
- 22 (7) any other person authorized or under obligation to dispose of the body.

23 SECTION 3. Section 13 of said Chapter 113, as so appearing, is hereby amended by inserting
24 after the word "body" in line 8 the following including the surviving reciprocal beneficiary as
25 defined in Section 1 of Chapter 209E.

26 SECTION 4. Chapter 114, of the General Laws, is hereby amended by inserting after Section
27 44A the following Section 44B:--

28 (1) Any individual of sound mind who is 18 years of age or older, by completion of a written
29 signed instrument or by preparing of prearranging with any licensed funeral service practitioner,
30 may direct any lawful manner of disposition of the individual's remains. Except as provided
31 under subsection (6) of this section, disposition directions or disposition prearrangements that are
32 prepaid or that are filed with a licensed funeral service practitioner shall not be subject to
33 cancellation or substantial revision.

34 (2) A person within the first applicable listed class among the following listed classes that is
35 available at the time of death or, in the absence of actual notice of a contrary direction by the
36 decedent as described under subsection (1) of this section or actual notice of opposition by
37 completion of a written instrument by a member of the same class or a member of a prior class,
38 may direct any lawful manner of disposition of a decedent's remains by completion of a written
39 instrument:--

40 (1) the spouse,

41 (2) {the reciprocal beneficiary, as defined in Section 1 of Chapter 209E},

42 (3) an adult son or daughter,

43 (4) either parent,

44 (5) an adult brother or sister,

45 (6) a guardian of the person of the decedent at the time of his death.

46 (7) any other person authorized or under obligation to dispose of the body.

47 (3) The decedent or any person authorized in subsection (2) of this section to direct the
48 manner of disposition of the decedent's remains may delegate such authority to any person 18
49 years of age or older. Such delegation shall be made by completion of the written instrument.
50 The signature of the individual delegating his or her authority shall be required for the
51 completion of the written instrument. The person to whom the authority is delegated shall have
52 the same authority under subsection (2) of this section as the person delegating the authority.

53 (4) If a decedent or the decedent's designee issued more than one authorization or direction
54 for the disposal of the decedent's remains, only the most recent authorization or direction shall
55 be binding.

56 (5) A donation of anatomical gifts under Section 8 of Chapter 113, shall take priority over
57 directions for the disposition of a decedent's remains under this section only if the person
58 making the donation is of a priority under subsection (1) or (2) of this section the same as or
59 higher than the priority of the person directing the disposition of the remains.

60 (6) If the decedent had directed a disposition under subsection (1) of this section and those
61 financially responsible for the disposition are without sufficient funds to pay for such disposition,
62 or the estate of the decedent has insufficient funds to pay for the disposition, or if the direction is
63 unlawful, the direction shall be void and disposition shall be in accordance with the direction
64 provided by those persons given priority in subsection (2) of this section and who agree to be
65 financially responsible.

66 (7) Subject to the provisions of Chapter 113, if disposition of the remains of a decedent has
67 not been directed and authorized under this section within 10 days after the date of the death of
68 the decedent, a public health officer may direct and authorize disposition of the remains.

69 SECTION 5. Section 25 of Chapter 123 of the General Laws, as appearing in the 2004 Official
70 Edition, is hereby amended by inserting after the word “relative” in line 6 the following:-- or
71 reciprocal beneficiary as defined in Section 1 of Chapter 209E.

72 SECTION 6. Section 26 of said Chapter 123, as so appearing, is hereby amended by inserting
73 after the word “relative” in lines 41 and 43, in each instance the following:-- reciprocal
74 beneficiary.

75 SECTION 7. Section 27 of said Chapter 123, as so appearing, is hereby amended by inserting
76 after the word “relative” in line 3 the following:-- or reciprocal beneficiary.

77 SECTION 8. Section 30 of said Chapter 123, as so appearing, is hereby amended by inserting
78 after the word “kin” in line 4 the following:-- or reciprocal beneficiary.

79 SECTION 9. Section 35 of said Chapter 123, as so appearing, is hereby amended by inserting
80 after the word “guardian” in line 12 the following:-- reciprocal beneficiary.

81 SECTION 10. Section 108 of Chapter 175 of the General Laws, as so appearing, is hereby
82 amended by inserting after the word “policy holder” in line 32 the following:-- including a
83 reciprocal beneficiary as defined in Section 1 of Chapter 209E.

84 SECTION 11. Section 110, subsection (E) of said Chapter 175, as so appearing, is hereby
85 amended by inserting after the word “thereunder” the following:-- including reciprocal
86 beneficiaries.

87 SECTION 12. Section 110C of said Chapter 175, as so appearing, is hereby amended by
88 inserting after the word “residents” in line 8 the following:-- and reciprocal beneficiaries as
89 defined in Section 1 of Chapter 209E.

90 SECTION 13. Section 110G of said Chapter 175, as so appearing is hereby amended by
91 inserting after the word “dependents” in line 7, 9, 10, 14, 16, 19, 31, 47, in each instance the
92 following:-- or reciprocal beneficiary.

93 SECTION 13A. Section 111G of said Chapter 175, as so appearing, is hereby amended by
94 inserting after the word “age” the following:-- or reciprocal beneficiary as defined in Section 1 of
95 Chapter 209E.

96 SECTION 14. Section 113O of said Chapter 175, as so appearing, is hereby amended by
97 inserting after the word “employee” in line 128 the following:-- or reciprocal beneficiary as
98 defined in Section 1 of Chapter 209E.

99 SECTION 15. Section 132A of said Chapter 175, as so appearing, is hereby amended by
100 inserting after the word “children” in line 42 and after the word “members” in line 46 the
101 following:-- and surviving reciprocal beneficiaries.

102 SECTION 16. Section 133 of said Chapter 175, as so appearing, is hereby amended by striking
103 out the fourth paragraph and inserting in place thereof the following paragraph:--

104 Any group life insurance policy issued under the provisions of this section, except a
105 policy insuring the lives of debtors in accordance with clause (c) may also insure the dependents
106 of employees, or members or other persons insured thereunder, {including reciprocal
107 beneficiaries}, and the employees or members or other persons {or reciprocal beneficiaries} may
108 contribute part or all of the premium for such insurance. Notwithstanding provision 4 of Section
109 134, only one certificate need be issued for delivery to, an insured person if a statement
110 concerning any dependents’ coverage is included in such certificate. Upon termination of the
111 insurance with respect to the spouse {or reciprocal beneficiary} of any employee by reason of the

112 employee's termination of employment or death, the spouse {or reciprocal beneficiary} insured
113 pursuant to this section shall have the same conversion rights as to the insurance on his or her life
114 as is provided for the employee under provision 4 of said Section 134.

115 SECTION 17. Section 134 of said Chapter 175, as so appearing, is hereby amended by inserting
116 after the word "sisters" in line 93 the following:-- or reciprocal beneficiary.

117 SECTION 18. Chapter 184 of the General Laws is hereby amended by inserting after Section 7
118 the following section:--

119 Section 7A. Every conveyance or devise of lands, or interest therein, made to reciprocal
120 beneficiaries as defined in Section 1 of Chapter 209E, or to executors or trustees, creates a
121 tenancy in common unless it is in some manner clearly and expressly declared in the conveyance
122 or devise that the grantees or devisees take the lands with right of survivorship. Such a
123 declaration of a right to survivorship shall create a joint tenancy with survivorship.

124 SECTION 19. The second paragraph of Section 1 of Chapter 188 of the General Laws, as
125 appearing in the 2004 Official Edition, is hereby amended by striking out the first sentence and
126 inserting in place thereof the following sentence:--

127 For the purposes of this chapter, an owner of a home shall include a sole owner, joint
128 tenant, tenant by the entirety or tenant in common; provided, that only one owner may acquire an
129 estate of homestead in any such home for the benefit of his family {or for the benefit of his
130 reciprocal beneficiary as defined in Section 1 of Chapter 209E}; and provided further, that an
131 estate of homestead may be required on only one principal residence for the benefit of a family
132 {or for the benefit of a reciprocal beneficiary}.

133 SECTION 20. Section 4 of said Chapter 188, as so appearing, is hereby amended by striking out
134 the first sentence and inserting in place thereof the following sentence:--

135 The estate of homestead existing at the death of a person holding a homestead shall
136 continue for the benefit of the surviving spouse and minor children {or reciprocal beneficiary}
137 and shall be held and enjoyed by them, if one of them or a purchaser under Section 8 occupies
138 the premises, until the youngest unmarried child is 18 and until the marriage or death of the
139 spouse {or reciprocal beneficiary}; and if a widow or minor children are entitled to an estate of
140 homestead as provided herein, it may be set off to them in the same manner as dower.

141 SECTION 21. Section 6 of said Chapter 188, as so appearing, is hereby amended by inserting
142 after the word “spouse” in lines 8 and 9, in each instance the following:-- reciprocal beneficiary.

143 SECTION 22. Section 7 of said Chapter 188, as so appearing, is hereby amended by inserting
144 after the word “spouse” in lines 4 and 7, in each instance the following:-- reciprocal beneficiary.

145 SECTION 23. Section 8 of said Chapter 188, as so appearing, is hereby amended by inserting
146 after the word “spouse” in lines 1, 4 and 6, in each instance the following:-- or surviving
147 reciprocal beneficiary.

148 SECTION 24. Said Section 8 of said Chapter 188, as so appearing, is hereby further amended by
149 inserting after the word “them” in line 8 the following:-- or surviving reciprocal beneficiary.

150 SECTION 25. Section 1 of Chapter 190 of the General Laws, as so appearing is hereby
151 amended by inserting after the word “wife” in line 1 the following:-- or reciprocal beneficiary as
152 defined in Section 1 of Chapter 209E.

153 SECTION 26. Said Section 1 of said Chapter 190, as so appearing, is hereby further amended by
154 inserting after the word “wife” in lines 9 and 17, in each instance the following:-- or reciprocal
155 beneficiary.

156 SECTION 27. Section 3 of said Chapter 190, as so appearing, is hereby amended by inserting
157 after the word “children” in line 5 the following:-- or reciprocal beneficiary.

158 SECTION 28. Said Section 3 of said Chapter 190, as so appearing, is hereby further amended by
159 inserting after the word “husband” in line 29 the following:-- or reciprocal beneficiary.

160 SECTION 29. Chapter 191 of the General Court is hereby amended by inserting after Section 9
161 the following section—

162 Section 9A. The registration of a person as a reciprocal beneficiary, in accordance with
163 Section 5 of Chapter 209E shall act as a revocation of a will made by him previous to registration
164 unless it appears from the will that it was made in contemplation thereof. If the will is made in
165 the exercise of a power of appointment and the real and personal property subject to the
166 appointment would not, without the appointment, pass to the persons who would have been
167 entitled to it if it had been the estate and property of the testator making the appointment and he
168 had died intestate, so much of the will as makes the appointment shall not be revoked by
169 registration as a reciprocal beneficiary

170 If, after executing a will, the testator shall terminate his or her “Reciprocal Beneficiary
171 Contract,” as provided by Section 6 of Chapter 209E, such termination shall revoke any
172 disposition or appointment of property made by the will to the formal reciprocal beneficiary, any
173 provision conferring a general or special power of appointment on the former reciprocal
174 beneficiary, and any nomination of the former reciprocal beneficiary, as executor, trustee,

175 conservator or guardian, unless the will shall expressly provide otherwise. If provisions shall be
176 revoked solely by this section, they shall be revived by the testator's re-registration as a party to
177 a new "Reciprocal Beneficiary Contract" with the former reciprocal beneficiary.

178 SECTION 30. Chapter 196 of the General Laws is hereby amended by striking out Section 1
179 and inserting in place thereof the following:--

180 Section 1. Articles of apparel and ornaments of the surviving spouse, minor children {or
181 surviving reciprocal beneficiary, as defined in Section 1 of Chapter 209E} of a deceased person
182 shall belong to them respectively. The surviving spouse {or surviving reciprocal beneficiary}
183 may remain in the house of a deceased spouse {or deceased reciprocal beneficiary} for not more
184 than six months next succeeding the death without being chargeable for rent.

185 SECTION 31. Section 2 of said Chapter 196, as appearing in the 2004 Official Edition, is
186 hereby amended by inserting after the word "spouse" in line 3 the following:-- or surviving
187 reciprocal beneficiary.

188 SECTION 32. Section 2 of said Chapter 196, as so appearing, is hereby further amended by
189 inserting the word "spouse" in line 4, each time it appears the following:-- or reciprocal
190 beneficiary.

191 SECTION 33. Section 3 of said Chapter 196, as so appearing, is hereby amended by striking out
192 the last sentence and inserting in place thereof the following sentence:--

193 The widow or surviving reciprocal beneficiary shall be entitled only to his or her share in
194 the residence after deducting the value of the advancement.

195 SECTION 34. Section 3 of Chapter 201D of the General Laws, as so appearing, is hereby
196 amended by adding the following:-- or unless both parties are signatories to a valid reciprocal
197 beneficiaries contract as defined in Section 1 of Chapter 209E.

198 SECTION 35. The third paragraph of Section 7 of said Chapter 201D is hereby amended by
199 adding the following:-- or (iii) the termination of Reciprocal Beneficiary Contract, in accordance
200 with Section 6 of Chapter 209E, between the principal and his reciprocal beneficiary, where the
201 reciprocal beneficiary is the principal's agent under a health care proxy.

202 SECTION 36. Section 17 of said Chapter 201D, as so appearing, is hereby amended by inserting
203 after the word "principal" in line 3 the following:-- or reciprocal beneficiary as defined in
204 Section 1 of Chapter 209E.

205 SECTION 36a. Section 1 of Chapter 228 of the General Laws, as so appearing, is hereby
206 amended by adding after the word "guardian" the following:-- or reciprocal beneficiary as
207 defined in Section 1 of Chapter 209E.

208 SECTION 37. The General Laws are hereby amended by inserting after Chapter 209D the
209 following chapter:--

210 CHAPTER 209E

211 RECIPROCAL BENEFICIARY CONTRACTS.

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

214 "Former reciprocal beneficiary" a party to a prior "Reciprocal Beneficiary Contract"
215 which has since been terminated in accordance with Section 6.

216 “Notice of Termination of Reciprocal Beneficiary Contract” a form, signed by a party to
217 a valid “Reciprocal Beneficiary Contract” indicating his or her intention to terminate the
218 operation of a “Reciprocal Beneficiary Contract” and filed in accordance with Section 6.

219 “Reciprocal beneficiary” an adult who meets the eligibility requirements as defined in
220 Section 2 and who is a party to a valid “Reciprocal Beneficiary Contract.”

221 “Reciprocal Beneficiary Contract” a form, signed by two eligible adults, who meet the
222 requirements of Section 2, and registered in accordance with Section 5, indicating the contractual
223 agreement between the two adults to share certain rights and benefits enumerated in the Act.

224 “Secretary” the Secretary of State.

225 SECTION 2. In order to enter into a valid “Reciprocal Beneficiary Contract,” it shall be
226 necessary that:--

227 a. each of the parties be at least 18 years of age and legally competent;

228 b. each of the parties be a legal resident of the Commonwealth;

229 c. neither of the parties be married, nor a party to another “Reciprocal Beneficiary
230 Contract”;

231 d. the parties be legally prohibited from marrying one another under Chapter 207 of the
232 General Laws;

233 e. consent of either party to the “Reciprocal Beneficiary Contract” has not been obtained by
234 force, duress, or fraud;

235 f. “Reciprocal Beneficiary Contract” form must be signed by both parties and filed as
236 specified in Section 5.

237 SECTION 3. The Secretary of State may promulgate rules and regulations regarding the
238 implementation of this chapter.

239 SECTION 4. Forms:--

240 a. The Secretary shall prepare and make available the form entitled “Reciprocal Beneficiary
241 Contract”. This form shall state the eligibility requirements, and require each person who wants
242 to become a party to a “Reciprocal Beneficiary Contract” to:--

243 1). State that he or she desires to enter into a legally binding contractual agreement to share
244 certain benefits and obligations enumerated in this chapter;

245 2). State that he or she meets the requirements of Section 2 at the time the form is signed and
246 notarized;

247 3). Provide a mailing address;

248 4). Provide a social security number;

249 5). Sign the form with a declaration that representations made therein are true, correct, and
250 contain no material omissions of fact to the best knowledge and belief of each declarant;

251 6). Have a notary public certify both signatures;

252 7). File the document with the Secretary.

253

254 b. The Secretary shall also prepare and make available the form entitled “Notice of
255 Termination of Reciprocal Beneficiary Contract”. This form shall require each person who
256 wants to terminate a valid “Reciprocal Beneficiary Contract” to:--

257 1). Provide the date and the registration number of the original “Reciprocal Beneficiary
258 Contract”;

259 2). State that he, she or they desire to terminate the operation of the existing “Reciprocal
260 Beneficiary Contract”;

261 3). Provide both parties most recent mailing addresses;

262 4). Provide both parties social security numbers;

263 5). Sign the form with a declaration that representations made there are true, correct, and
264 contain no material omissions of fact to the best knowledge and belief of the declarant(s);

265 6) Have a notary public certify his, her or their signature(s);

266 7) File the document with the Secretary.

267 SECTION 5. Two people who meet the criteria set out in Section 2 of this chapter may register
268 their contractual agreement to become reciprocal beneficiaries by filing a completed, signed and
269 notarized “Reciprocal Beneficiary Contract” from with the Secretary.

270 The Secretary shall set and collect a fee for filing the “Reciprocal Beneficiary
271 Contract” form, which shall be deposited in the General Fund.

272 Upon receipt of a completed, signed, notarized “Reciprocal Beneficiary Contract”
273 form and the filing fee, the Secretary shall register the contractual agreement, assign the parties a

274 registration number and forward a copy of the “Reciprocal Beneficiary Contract” form to each
275 party named on the form by first class mail. A signed and notarized “Reciprocal Beneficiary
276 Contract” form shall constitute a public record.

277 The Secretary shall maintain a record of each “Reciprocal Beneficiary Contract”
278 form filed with the Secretary. The Secretary may make the information contained in the
279 “Reciprocal Beneficiary Contract” form available to such state or federal agencies as may be
280 required by state or federal law.

281 The Secretary shall maintain a process whereby “Reciprocal Beneficiary
282 Contracts” and marriage licenses are cross-referenced for the purpose of this chapter.

283 SECTION 6. Either party to a “Reciprocal Beneficiary Contract” may terminate the
284 agreement by filing a completed, signed, notarized “Notice of Termination of Reciprocal
285 Beneficiary Contract” with the Secretary.

286 Upon receipt of a completed, signed, notarized “Notice of Termination of
287 Reciprocal Beneficiary Contract” form and the filing fee, the Secretary shall register the “Notice
288 of Termination of Reciprocal Beneficiary Contract “ form and forward a copy of the “Notice of
289 Termination of Reciprocal Beneficiary Contract” form to each party’s most recently know
290 address by first class mail. Termination of the “Reciprocal Beneficiary Contract” shall become
291 effective 30 days after the date of Notice is registered by the Secretary, unless the party or parties
292 filing the Notice of Termination withdraw the termination form by notifying the Secretary in
293 writing.

294 The Secretary shall set and collect a fee for filing the “Notice of Termination of
295 Reciprocal Beneficiary Contract” form which shall be deposited into the General Fund. The

296 Secretary shall also maintain a record of each filed “Notice of Termination of Reciprocal
297 Beneficiary Contract” form, cross referenced with marriage licenses for the purpose of this
298 chapter.

299 When a marriage license is issued to either party to a “Reciprocal Beneficiary
300 Contract” or when a party to a “Reciprocal Beneficiary Contract” enters into a marriage, the
301 “Reciprocal Beneficiary Contract” shall be deemed terminated and the rights and obligations
302 provided to the parties under this chapter shall no longer be available.

303 SECTION 7. Upon registration of the “Reciprocal Beneficiary Contract” form, “Reciprocal
304 Beneficiary” rights and obligations shall be limited to the provisions contained in this chapter.
305 Such provisions shall be narrowly interpreted, and nothing in this chapter shall be construed nor
306 implied to create or extend rights or benefits not specifically provided here.

307 SECTION 8. If any provisions of this chapter, or the application thereof to any person or
308 circumstance is held invalid, the invalidity does not affect other provisions of applications of the
309 chapter, which can be given effect without the invalid provision or application, and to this end
310 the provisions of this chapter are severable.