

HOUSE No. 167

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth Poirier

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 the licensure and regulation of au pair and nanny agencies by the office of child care services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Elizabeth Poirier	14th Bristol
Paul K. Frost	7th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 129 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE LICENSURE AND REGULATION OF AU PAIR AND NANNY
AGENCIES BY THE OFFICE OF CHILD CARE SERVICES.

*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 28A of the Mass. General Laws is hereby amended by adding, after section 11B,
2 the following new section:—
3 Section 11C. The Office of Child Care Services, hereafter known as the Office, is hereby authorized and
4 directed to establish, implement, provide oversight to, and promulgate regulations for, a licensure
5 and approval process for employment and placement agencies as defined in section two of this chapter,
6 who are engaged in placing au pairs and nannies, as defined in section two of this chapter, in a private
7 residence for the purposes of performing child care services and duties on a full time or regular basis.
8 Such agencies shall provide verification to the Office to the effect that each au pair and nanny, prior to
9 being placed in a private residence, and wherein stated during said placement, has met the specific
10 standards and criteria stated in this section, and shall develop forms and procedures approved by the
11 Office for such verification. No employment or placement agency shall place any person defined in
12 section two for the purposes of providing child care services unless the standards approved by the Office
13 and all other statutory and regulatory obligations are fulfilled. The Commissioner of the Office, in
14 conjunction with the employment or placement agency, may exercise discretion and flexibility in the
15 evaluation and consideration of standards to be met and in determinations of substitute or alternative
16 criteria which would fulfill such requirements or their equivalent. The Commissioner may consider
17 documented training or experience in a child care program or school, a nursery, or other acceptable
18 participation in coursework or experience submitted by the au pair and nanny through the employment

19 or placement agency as equivalent criteria required to meet educational and training standards. The
20 Commissioner may accept as fulfillment of the requirements, and may further approve of, programs of
21 education and training in child care services, child development, child welfare, or other, or certification or
22 diplomas or degrees received by au pairs and nannies in their home countries, as approved of and verified
23 by, the placement or employment agency in its submissions to the Office. The licensing of employment
24 and placement agencies shall be dependent upon the verification by the employment and placement
25 agencies, of the following requirements to be met by au pairs and nannies, which shall be fulfilled in
26 addition to those set forth in the federal regulations of the USIA, 514.31 Au Pairs, requiring a thirty-two
27 hour training period, and documented child care experiences constituting two hundred hours. However, if
28 such thirty-two hour training period becomes fully accredited by a college, university, or recognized
29 educational institute, such training hours may be applied by the Office as partial fulfillment of
30 requirements in education and training as stated in this section. The Commissioner may ascertain and
31 approve, in conjunction with the placement or employment agencies, that the persons teaching child care
32 training and educational requirements are qualified professionals. The following standards and criteria
33 shall be required of au pairs and nannies, subject to conditions set forth in this section: (a) two formal
34 standard courses, or six semester hours, in early childhood education, or a certificate or vocational
35 program in early childhood education, or equivalent, either during secondary educational coursework, or
36 during post-secondary coursework in a recognized college, university other educational institution in
37 child care training, child development, child welfare, or other appropriate coursework, classes or training,
38 including substitutions in educational courses and/or work experience determined as acceptable by the
39 Commissioner; (b) participation in at least three days in-service training and education in early childhood
40 education, child development and child welfare and safety, or other such appropriate child care services
41 training, either midway through the year of the placement of the au air, or at intervals during the year of
42 placement, as approved by the Commissioner, in conjunction with the employment or placement agency;
43 (c) certification in CPR and Basic First Aid; (d) screening and background checks for criminal and
44 juvenile conduct including psychological assessments, health and medical examinations, school records
45 and attendance, which shall be provided by au pairs and nannies or solicited by the employment or
46 placement agencies through school records, references from counselors, teachers, or other school
47 personnel, police authorities, driving records, or through other means available and as approved by the
48 Commissioner. No au pair or nanny as defined in section two of this chapter, who is eighteen or nineteen
49 years of age, shall be placed in a private residence for the purposes of providing child care to more than
50 two children who are each under the age of five years. The Commissioner shall provide notification to
51 each employment and placement agency to be licensed, that they and all personnel involved with the au

52 pair and nanny programs, are mandated reporters of child abuse and neglect, as stated in chapter one
53 hundred and nineteen, section fifty-one A of the Massachusetts General Laws.

54 The provisions of this chapter as applied to the licensing of placement or employment agencies for au
55 pairs and nannies, as defined in section two, shall take effect on June 30, 2006.

56 SECTION 2. Section 2 of chapter 28A is hereby amended by adding at the end the following new
57 paragraphs:—

58 For the purposes of this chapter, the following definitions shall apply.

59 “Foreign or domestic au pair and nanny placement or employment agency” — any educational or cultural
60 foundation, institution, agency, company or otherwise named, which for a fee or other payment, procures,
61 solicits, or attempts to procure or solicit, from out- side or within the commonwealth and from outside or
62 within the United States, persons who enter through a J Exchange Program visa, or who enter through any
63 other visa, or to whom such persons seek application, for the purposes of placement and/or employment
64 in a private residence in the commonwealth, to act in the capacity of providing child care services as an au
65 pair or nanny, either while living in the home or by providing child care in the home and living without
66 the home, on a full time or regular basis. “Au Pair” — any person, ages 18-26, who, under the auspices of
67 a cultural or educational agency or foundation or other such entity, enters the United States through an
68 “exchange visitors” visa program, to be placed in a private residence in the commonwealth for the
69 purposes of performing child care services and duties, in the capacity of a primary child care worker on a
70 full-time or regular basis.

71 “Nanny” — any person 18-26, who is placed by an agency or company in a private residence, and who
72 enters the United States and the commonwealth through any visa or is a citizen of the United States and
73 resides in the commonwealth, and who lives within or without the home, for the purposes of performing
74 child care services and duties, in the capacity of a primary child care worker on a full time or regular
75 basis.

76 SECTION 3. Section 4 of chapter 28A is hereby amended by adding, in subsection (c), after the words,
77 “family day care systems”, the following words, “and au pair and nanny agencies as defined in section
78 two of this chapter.”.

79 SECTION 4. Section 11 of chapter 28A is hereby amended by adding, under subsection (a), after the
80 words, “temporary shelter facility”, the following words, “or placement or employment agency
81 as defined in section two of this chapter.”

82 SECTION 5. Section 10B of chapter 28A is hereby amended by adding at the end, the following
83 paragraphs:—

84 Au Pair and Nanny Agencies, as defined in section two of this chapter, shall be required to provide
85 quarterly reports to the Office of Child Care Services which shall include:

86 a. the location and address of each au pair or nanny placement;
87 b. the total number of au pairs or nannies placed within the commonwealth and the areas of the state in
88 which they are placed;
89 c. any change in placement or disrupted placement, or, removal of an au pair from a placement and the
90 reasons for the change or removal; the new placement location, if applicable;
91 d. the dates of placement for each au pair or nanny and the duration of the placement;
92 e. the numbers of children and their ages in the care of each au pair or nanny;
93 f. the number of hours required for each au pair or nanny to provide child care, on a weekly basis;
94 g. a summary of the training and education and other requirements to be met under
95 this Act, of each au pair and nanny placed, and the location and duration of the education and training or
96 other requirement;
97 h. the number of hours of in-service training to be required of each au pair or nanny, who will provide the
98 training and when it will occur during the placement. The au pair or nanny agency shall submit to
99 the Office, prior to any placement of an au pair or nanny, documentation of each requirement to be
100 fulfilled by the au pair or nanny and by the agency itself. The Office shall review all records and
101 documents for meeting criteria and standards set forth in section 11B of this chapter for au pair and nanny
102 agencies, as defined in section two of this Act, at the inception of the licensure and approval process, and
103 thereafter on an annual basis, or more frequently if deemed necessary by the Commissioner, and shall
104 ascertain by a method developed by the Office that all requirements and credentials set forth in this Act
105 have been fulfilled. No au pair or nanny shall be placed in a private residence for the purposes of
106 providing full time child care or child care on a regular basis, without meeting all credentials and
107 requirements set forth in this Act.