# HOUSE . . . . . . . . . . . . . . . . . . No. 1986

## The Commonwealth of Massachusetts

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PRESENTED BY:

### *Kenneth I. Gordon and David M. Rogers*

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*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 creating a presumption of relatedness for workers suffering from COVID-19.

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PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| Kenneth I. Gordon | 21st Middlesex | 2/17/2021 |
| David M. Rogers | 24th Middlesex | 2/25/2021 |
| Brian W. Murray | 10th Worcester | 2/24/2021 |
| Angelo J. Puppolo, Jr. | 12th Hampden | 2/24/2021 |
| Kay Khan | 11th Middlesex | 2/24/2021 |
| Lindsay N. Sabadosa | 1st Hampshire | 2/25/2021 |
| Christina A. Minicucci | 14th Essex | 2/26/2021 |
| Nika C. Elugardo | 15th Suffolk | 2/26/2021 |
| Edward F. Coppinger | 10th Suffolk | 3/4/2021 |
| Liz Miranda | 5th Suffolk | 3/9/2021 |
| Tram T. Nguyen | 18th Essex | 3/3/2021 |
| David Henry Argosky LeBoeuf | 17th Worcester | 3/10/2021 |
| Adam J. Scanlon | 14th Bristol | 3/14/2021 |
| Daniel J. Hunt | 13th Suffolk | 3/14/2021 |
| Adrian C. Madaro | 1st Suffolk | 3/16/2021 |
| Christopher Hendricks | 11th Bristol | 3/18/2021 |
| Tackey Chan | 2nd Norfolk | 3/24/2021 |
| Maria Duaime Robinson | 6th Middlesex | 4/1/2021 |

# HOUSE . . . . . . . . . . . . . . . . . No. 1986

By Messrs. Gordon of Bedford and Rogers of Cambridge, a petition (accompanied by bill, House, No. 1986) of Kenneth I. Gordon, David M. Rogers and others relative to the presumption of relatedness for workers suffering from COVID-19.  Labor and Workforce Development.

## The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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An Act creating a presumption of relatedness for workers suffering from COVID-19.

*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. For purposes of this Act, the following terms shall have the following

2   meanings:-

3      "Employer", any employer as defined in section one of Chapter 152 that may operate

4   subject to any executive order issued by the Governor during the State of emergency

5      "Employee", any individual who works for an employer outside of the individual's home

6   and who has any contact with any other person at the workplace or in connection with work.

7      "State of emergency", the state of emergency called by Executive Order No. 591 dated

8   March 10, 2020 concerning the health care crisis caused by the COVID-19 virus, along with any

9   subsequent states of emergency that may be declared by the Commonwealth from time to time or

10   at any time due to health care concerns raised by the COVID-19 virus.

11    SECTION 2. Chapter 34 of Section 152 of the general laws is hereby amended by

12    inserting the following language after the second paragraph of said Chapter:

13    Notwithstanding any general or special law, rule or regulation to the contrary, any

14    employee, who contracts, has symptoms of or otherwise becomes affected with COVID-19 that

15    results in a period of hospitalization, quarantine, or requires self-quarantine measures as a result

16    of being infected or coming into contact with someone who is infected with the COVID-19 virus,

17    shall have their medical condition or incapacity to work presumed to be work-related and

18    constitute a rebuttable qualification for protection under this Section, without application of any

19    waiting period.

20    Said employee shall not be required to use said employee's accrued sick time, vacation

21    time, personal time or any other contractual time-off to cover said period of incapacitation or

22    inability to perform regular duty work.

23    SECTION 3. A refusal on behalf of the employer to allow the employee to return to the

24    employee's previous position of employment when the period of quarantine, self-quarantine,

25    recovery, or hospitalization is removed will be considered a per se incident of disability

26    discrimination pursuant to the provisions of Section 4 of Chapter 151B.

27    SECTION 4. The provisions of Sections 23 and 24 of Chapter 152 do not apply to claims

28    brought under this Act, unless the employer demonstrates compliance with all relevant and active

29    orders and advisories of the Governor of the Commonwealth concerning workplace safety

30    restrictions during the state of emergency, such as, but not limited to, the provision to employees

31    of available Personal Protective Equipment and appropriate safe distancing opportunities, and

32    with any regulations issued by the Division of Labor Standards of the Commonwealth or any

33    guidance or standards issued by the Occupational Safety and Health Administration of the U.S.

34    Department of Labor.

35         SECTION 5. This act shall be in force to protect employees who are exposed to the

36    COVID-19 virus or are advised to quarantine or self-quarantine by any health official during the

37    pendency of the state of emergency.  As provided in Section 41 of Chapter 52, a claim under this

38    act must be brought within four years of the discovery of any condition caused by exposure to

39    the COVID-19 virus or any loss of employment due to said exposure or period of quarantine or

40    self-quarantine resulting therefrom.

41         SECTION 6. An employee who chooses not to return to work for an employer due to a

42    good-faith concern that the worker may be exposed to the COVID-19 virus will be considered

43    eligible for benefits under Chapter 151A as if the employee had been constructively discharged.

44         SECTION 7. Any recipient of benefits under Chapter 151A who chooses not to accept re-

45    employment during the benefit period due to concerns about exposure to the COVID-19 virus

46    will not become ineligible for benefits under Chapter 151A due to the refusal of the re-

47    employment position.

48         SECTION 8.   Any costs associated with the payment of claims under this Act shall not

49    be included in experience rating calculations for individual employers unless there has been a

50    conclusive finding by the appropriate agency that the employer has failed to follow guidance or

51    regulations issued by the Commonwealth of Massachusetts or any municipal or county

52    government in the Commonwealth, the Centers for Disease Control and Prevention, or the U.S.

53    Department of Labor's Occupational Safety and Health Administration.