

HOUSE No. 4155

The Commonwealth of Massachusetts

PRESENTED BY:

David Paul Linsky

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 resolve:

Resolve establishing a durable power of attorney review commission.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/18/2021</i>

HOUSE No. 4155

By Mr. Linsky of Natick, a petition (accompanied by resolve, House, No. 4155) of David Paul Linsky for an investigation by a special commission (including members of the General Court) of the provisions governing durable power of attorney as codified and administered in the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

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

Resolve establishing a durable power of attorney review commission.

1 **Resolved**, That there shall be a special legislative commission established pursuant to
2 section 2A of chapter 4 of the General Laws to do the following review and investigation of
3 durable powers of attorney: (i) how the provisions governing durable power of attorney are
4 codified and administered in the commonwealth; (ii) how they are used in practice; (iii) the
5 uniformity of durable power of attorney, including documents, forms, practices and powers;(iv)
6 the risk and prevalence of fraud or financial abuse of those under the care of a durable power of
7 attorney, (v) make an assessment of protections in Massachusetts laws and policies to protect
8 individuals from abuse from a durable power of attorney; (vi) make an assessment of legal
9 vehicles or pathways for those who have been financially abused; (vii) review and investigate
10 any other relevant topic the chairs deem necessary; and (viii) to make recommendations for
11 potential legislative changes and related policies as the commission deems appropriate.

12 In conducting its review, the commission shall seek to determine how durable power of
13 attorney is codified and put into practice under current Massachusetts law and policy with the

14 goal of ensuring these powers are not used to financially abuse, mislead or mistreat those under
15 the care of a durable power of attorney.

16 To assist the commission in carrying out its review, the secretary of elder affairs, the
17 director of the office on disability, the executive director of the disabled persons protection
18 commission and the commissioner of the department of children and families shall provide to the
19 commission any data and information the commission considers relevant to its charge.

20 The commission shall consist of: the secretary of elder affairs, or a designee, who shall
21 serve as a co-chair; the commissioner of the department of children and families, or a designee,
22 who shall serve as the other co-chair; the director of the office on disability, or a designee; the
23 executive director of the disabled persons protection commission, or a designee; the chairs of the
24 joint committee on the judiciary; the chairs of the joint committee on elder affairs; the chairs of
25 the joint committee on children, families, and persons with disabilities; the attorney general, or a
26 designee; the secretary of the commonwealth, or a designee; the speaker of the house of
27 representatives, or a house member designee; the president of the senate, or a senate member
28 designee; the minority leader of the house of representatives, or a house member designee; the
29 minority leader of the senate, or a senate member designee; the chief justice of the probate and
30 family court, or a designee; the president of the Massachusetts Bar Association or a designee; the
31 president of the Massachusetts Councils on Aging, or a designee; 1 person nominated by the
32 Alzheimer's Association; 1 person nominated by the National Academy of Elder Law Attorneys
33 Massachusetts Chapter, a district attorney; and a member of law enforcement to be nominated by
34 the Massachusetts Chiefs of Police Association.

35 In appointing members of the commission, consideration shall be given to race, gender,
36 socioeconomic and geographic diversity that is reflective of the population of Massachusetts.

37 The special commission shall hold no fewer than 5 public meetings and incorporate
38 feedback from relevant advocacy organizations, care organizations, affected communities,
39 families and other relevant stakeholders from across the commonwealth as well as state and
40 federal experts in financial law and policy and financial crime.

41 The special commission shall submit a detailed report of its findings and
42 recommendations, along with drafts of legislation necessary to carry out its recommendations by
43 filing its report with the clerks of the house of representatives and the senate and the house and
44 senate committees on ways and means not later than March 1, 2022.