

HOUSE No. 80

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Dean Campbell

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 to establish a registry of caretakers found to have substantiated abuse against persons with intellectual disability or developmental disability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Gerard Cassidy</i>	<i>9th Plymouth</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Brendan P. Crighton</i>	<i>11th Essex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>

<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Juana Matias</i>	<i>16th Essex</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Jerald A. Parisella</i>	<i>6th Essex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

Thomas P. Walsh

12th Essex

Timothy R. Whelan

1st Barnstable

Bud Williams

11th Hampden

HOUSE No. 80

By Mrs. Campbell of Methuen, a petition (accompanied by bill, House, No. 80) of Linda Dean Campbell and others relative to the establishment of an abuse registry for certain caretakers of persons with intellectual or developmental disabilities. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to establish a registry of caretakers found to have substantiated abuse against persons with intellectual disability or developmental disability.

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 nineteen B of the general laws is hereby amended by inserting at
2 the end thereof the following new section:-

3 Section 21. Massachusetts disability abuse registry.

4 (1) Definitions

5 “Abuse” shall have the same meaning as “abuse” as defined by the disabled persons
6 protection commission pursuant to chapter nineteen C of the general laws.

7 “Caretaker” means any person employed by a provider licensed by the department
8 pursuant to sections fifteen and fifteen A of chapter nineteen B of the general laws, that provides
9 services or supports to a person with an intellectual or developmental disability.

10 “Commissioner” means the commissioner of the department of developmental services.

11 “Department” means the department of developmental services.

12 (2) Creation of a Disability Abuse Registry

13 The department shall, subject to appropriation, establish and maintain a computerized
14 registry of caretakers against whom a substantiated finding of abuse of a person with an
15 intellectual or developmental disability has been issued by the disabled persons protection
16 commission in accordance with chapter nineteen C of the general laws, or a substantiated finding
17 of financial exploitation of a person with an intellectual or developmental disability has been
18 issued by the department, to be known as the Massachusetts disability abuse registry.

19 The department shall, in accordance with section two of chapter thirty A of the general
20 laws and subject to appropriation, adopt regulations consistent with this section. Said regulations
21 shall include procedures and standards for the placement of a caretaker’s name on the
22 Massachusetts disability abuse registry, and the process for the notification to the caretaker of the
23 right to appeal the placement of his or her name on the Massachusetts disability abuse registry.
24 The department’s rules and regulations shall provide for a hearing within the meaning of
25 subsection one of section one of chapter thirty A of the general laws.

26 (3) Registration process

27 After a substantiated finding of abuse of a person with an intellectual disability or
28 developmental disability by a caretaker or a finding of financial exploitation of a person with an
29 intellectual or developmental disability by a caretaker, and after notice and a reasonable
30 opportunity for a hearing for the caretaker to rebut such findings, the department shall determine
31 whether a caretaker’s name shall be entered on the Massachusetts disability abuse registry.

32 The department shall enter the caretaker name with an asterisk (referencing appeal) upon
33 the Massachusetts disability abuse registry until the appeal period is expired or subject to the
34 resolution of an appeal.

35 (4) Requirement to check registry

36 Prior to hiring an individual seeking employment, a provider shall determine whether the
37 applicant's name appears on the Massachusetts disability abuse registry.

38 The department shall notify a provider that currently employs a caretaker upon the entry
39 of a caretaker's name on the Massachusetts disability abuse registry.

40 The department shall maintain and disclose any statement made by the caretaker
41 disputing the caretaker's inclusion on the Massachusetts disability abuse registry.

42 (5) Prohibition on hiring persons on the Massachusetts disability abuse registry

43 No service provider shall hire or knowingly employ an individual whose name appears
44 on the Massachusetts disability abuse registry, or, if an alternative sanction was imposed, that
45 individual may not be hired or employed until the terms of such sanction have been fulfilled.

46 (6) Retaliation for reporting abuse

47 The rights and protections of section eleven of chapter nineteen C of the general laws
48 shall apply.

49 (7) Access to the registry

50 The information maintained in the Massachusetts disability abuse registry shall not be
51 considered to be a "public record" under clause twenty-six of section seven of chapter four of the

52 general laws. The department shall keep confidential and may only disseminate information
53 contained in the Massachusetts disability abuse registry to a provider for consideration of current
54 employee or an applicant for employment to provide direct care to persons with intellectual
55 disability or developmental disability.

56

57 SECTION 2. Section five of chapter nineteen C of the general laws, is hereby amended
58 by inserting at the end thereof, the following new subsection:

59 (6) Immediately upon issuance of an investigation report substantiating abuse of a person
60 with an intellectual disability or developmental disability, the commission shall submit all
61 relevant information to the Massachusetts disability abuse registry.

62 SECTION 3. The Department shall amend its present regulations to include the
63 following in Section 2 (a) of 115 CMR 9.08, the following new subsection:

64 6. guardian, parent or sibling (excluding any person complained of or thought to be
65 responsible for the matter alleged) shall be offered a joint interview.