

**SENATE . . . . . No. 1538**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Jason M. Lewis*

*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 requiring health care facilities to develop and implement programs to prevent workplace violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>2/21/2023</i>

**SENATE . . . . . No. 1538**

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By Mr. Lewis, a petition (accompanied by bill, Senate, No. 1538) of Jason M. Lewis and Steven S. Howitt for legislation to require health care facilities to develop and implement programs to prevent workplace violence. Public Safety and Homeland Security.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1603 OF 2021-2022.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

An Act requiring health care facilities to develop and implement programs to prevent workplace violence.

*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 is hereby amended by inserting after  
2 section 243 the following new section:-

3 Section 244. (a) For the purposes of this section, the following words shall have the  
4 following meanings:-

5 "Aggravated interference with the conduct of a health care facility", conduct as defined  
6 by section 13½ of chapter 265.

7           “Employee”, an individual employed by, or contracted for employment by, providing  
8 health care services at, volunteering at, or participating in an educational course of instruction at  
9 a health care facility, as defined in this section.

10           “Health care facility”, a hospital as defined under section 51 of chapter 111 of the general  
11 laws.

12           “Interference with the conduct of a health care facility”, conduct as defined by section  
13 13½ of chapter 265.

14           “Workplace violence”, any attempted or actual harmful or unpermitted touching of  
15 another person that results in injury and occurs in a health care facility.

16           (b) Notwithstanding any general or special law to the contrary, within six months of the  
17 date of enactment, the department shall develop statewide standards for evaluating and  
18 addressing known security risks at health care facilities. These workplace safety and violence  
19 prevention standards shall be based on existing state laws and regulations as well as national  
20 accreditation and professional association standards for health care facilities for the purpose of  
21 ensuring consistency in the development of and annual review of internal operations preventing  
22 known risks.

23           These standards shall include, but not be limited to: working in a health care facility in an  
24 region with higher than average criminal activity; working in public settings; guarding or  
25 maintaining property or possessions; working in high-traffic areas of a health care facility;  
26 working late night or early morning hours; working alone or in small numbers; working in areas  
27 of a health care facility where patients or visitors are in crisis; working in areas where patients or  
28 visitors may exhibit violent or involuntary behavior and; working in areas with known security

29 risks. In developing such standards, the department shall convene and consult with an advisory  
30 committee comprised of representatives from: the Office of Health Equity; the Massachusetts  
31 Health and Hospital Association; the Massachusetts Association of Behavioral Health Systems;  
32 the Organization of Nurse Leaders; the Emergency Nurses Association Massachusetts Chapter;  
33 the Massachusetts Nurses Association; the National Association of Social Workers  
34 Massachusetts Chapter; the Massachusetts Association of Community Health Workers; the  
35 Massachusetts Chapter of Emergency Physicians; 1199 SEIU United Healthcare Workers East;  
36 The National Alliance on Mental Illness Massachusetts and; the Massachusetts Organization for  
37 Addiction Recovery. The department shall ensure that workplace safety standards do not exhibit  
38 any bias against specific patient populations, or the race, ethnicity, language, disability status,  
39 sexual orientation, or gender identity of patients or visitors. The department shall ensure that  
40 standards do not stigmatize or bias against patients with mental health, behavioral health, or  
41 substance use disorder presentation.

42       Following development of the statewide standards, each health care facility shall be  
43 required to provide a summary of its operational policy that complies with the standards and  
44 includes a description of: (i) the development of security risk identification; (ii) engagement with  
45 employees on potential risks; (iii) evaluation of incidents that have occurred; and (iv) periodic  
46 reassessments of programs and policies. Such summaries shall be submitted to the department  
47 within six months after the advisory committee promulgates its standards, and shall be updated  
48 when a health care facility makes a substantive change to its operational policy for security risk  
49 assessment.

50       (c) The health care facility shall develop and implement a program to minimize the  
51 danger of workplace violence to employees based on the statewide standards developed pursuant

52 to subsection (b), which shall include appropriate employee training and a system for the  
53 ongoing reporting and monitoring of incidents and situations involving violence or the risk of  
54 violence. Employee training program policies shall include: crisis de-escalation strategies;  
55 competency in behavioral health, mental health, and substance use disorder; implicit bias  
56 training; and trauma informed care. Employees shall also be trained in methods of reporting to  
57 appropriate public safety officials, bodies or agencies and processes necessary for the filing of  
58 criminal charges. Each health care facility shall develop a written plan setting forth the facility's  
59 workplace violence prevention plan. The health care facility shall make the plan available on site  
60 to each employee and allow any of its employees to review the plan on site upon request.

61 (d) Each health care facility shall designate a senior manager responsible for the  
62 development and support of an in-house crisis response team for employee-victims of workplace  
63 violence. Said team shall implement an opt-in staff action program that includes, but is not  
64 limited to, anonymous group crisis interventions, individual crisis counseling, staff victims'  
65 support groups, employee victims' family crisis intervention, peer-help or professional referrals.

66 (e) Each health care facility shall report every twelve months all incidents of assault and  
67 assault and battery under section 13I of chapter 265, aggravated interference with the conduct of  
68 a health care facility under section 13I½ of chapter 265, and interference with the conduct of a  
69 health care facility under section 13I½ of chapter 265, to the department of public health and the  
70 office of the district attorney. The department of public health shall make an annual public report  
71 on the prior year's data using aggregated statewide data of reported incidents.

72 (f) The commissioner of public health shall adopt rules and regulations necessary to  
73 implement the purposes of this act. The rules and regulations shall include such guidelines as the

74 commissioner deems appropriate regarding workplace violence prevention programs required  
75 pursuant to this act, and related reporting and monitoring systems and employee training.

76 SECTION 2. Chapter 149 of the general laws is hereby amended by adding after section  
77 187 the following new section:-

78 Section 187½. (a) For purposes of this section, the following words shall have the  
79 following meanings, unless the context clearly indicates otherwise:

80 “Employee”, an individual employed by a health care facility as defined in this section.

81 “Health care facility”, a hospital as defined under section 51 of chapter 111 of the general  
82 laws.

83 (b) A health care facility shall permit an employee to take paid leave from work if: (i) the  
84 employee is a victim of assault or assault and battery as defined under section 13I of chapter 265,  
85 or aggravated interference with the conduct of a health care facility, as defined under section  
86 13I½ of chapter 265, occurred in the line of duty; and (ii) the employee is using the leave from  
87 work to: seek or obtain victim services or legal assistance; obtain a protective order from a court;  
88 appear in court or before a grand jury; or meet with a district attorney.

89 (c) An employee seeking leave from work under this section shall provide appropriate  
90 advance notice of the leave to the health care facility as required by the facility's leave policy.

91 (d) A health care facility may require an employee to provide documentation evidencing  
92 that the employee has been a victim of assault or assault and battery sustained in the line of duty  
93 and that the leave taken is consistent with the conditions of clauses (i) and (ii).

94 (e) If an unscheduled absence occurs, the health care facility shall not take any negative  
95 action against the employee if the employee, within 30 days from the unauthorized absence or  
96 within 30 days from the last unauthorized absence in the instance of consecutive days of  
97 unauthorized absences, provides documentation that the unscheduled absence meets the criteria  
98 of clauses (i) and (ii).

99 (f) An employee shall provide such documentation to the health care facility within a  
100 reasonable period after the health care facility requests documentation relative to the employee's  
101 absence.

102 (g) All information related to the employee's leave under this section shall be kept  
103 confidential by the health care facility and shall not be disclosed, except to the extent that  
104 disclosure is: (i) requested or consented to, in writing, by the employee; (ii) ordered to be  
105 released by a court of competent jurisdiction; (iii) otherwise required by applicable federal or  
106 state law; (iv) required in the course of an investigation authorized by law enforcement,  
107 including, but not limited to, an investigation by the attorney general; or (v) necessary to protect  
108 the safety of the employee or others employed at the facility.

109 (h) An employee seeking leave under this section shall not have to exhaust all annual  
110 leave, vacation leave, personal leave or sick leave available to the employee, prior to requesting  
111 or taking leave under this section.

112 (i) No health care facility shall coerce, interfere with, restrain or deny the exercise of, or  
113 any attempt to exercise, any rights provided under this section or to make leave requested or  
114 taken hereunder contingent upon whether or not the victim maintains contact with the alleged  
115 abuser.

116 (j) No health care facility shall discharge or in any other manner discriminate against an  
117 employee for exercising the employee's rights under this section. The taking of leave under this  
118 section shall not result in the loss of any employment benefit accrued prior to the date on which  
119 the leave taken under this section commenced. Upon the employee's return from such leave, the  
120 employee shall be entitled to restoration to the employee's original job or to an equivalent  
121 position.

122 (k) The attorney general shall enforce this section and may seek injunctive relief or other  
123 equitable relief to enforce this section.

124 (l) Health care facilities shall notify each employee of the rights and responsibilities  
125 provided by this section including those related to notification requirements and confidentiality.

126 (m) This section shall not be construed to exempt a health care facility from complying  
127 with chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the  
128 rights of any employee under said chapter 258B, said section 14B of chapter 268 or any other  
129 general or special law.

130 SECTION 3. Chapter 265 of the general laws is hereby amended in section 13I by  
131 inserting at the end thereof the following:-

132 Any health care employee, as defined in section 244 of chapter 111, who is the victim of  
133 assault or assault and battery in the line of duty shall be given the option of providing either the  
134 individual's home address, the address of the health care facility where the assault or assault and  
135 battery occurred, the address of a labor organization who is representing the employee, if so  
136 requested by the employee, or by requesting a judge to impound the individual's home address.  
137 In instances where the address of the health care facility or labor organization is used, said



138 facility or labor organization shall ensure that the individual receives any documents pertaining  
139 to the assault or assault and battery by the next business day of receipt by said facility or labor  
140 organization. The health care facility or labor organization shall demonstrate that it has provided  
141 any and all documentation by obtaining an acknowledgement of receipt from the individual.

142 SECTION 4. Chapter 265 of the general laws is hereby amended by adding after section  
143 13I the following new section:-

144 Section 13I<sup>1/2</sup> Interference with the conduct of a health care facility

145 (a) For the purposes of this section, the following words shall have the following  
146 meanings:-

147 "Aggravated interference with the conduct of a health care facility", interference with the  
148 conduct of a health care facility, as defined in this section, knowingly and intentionally, when in  
149 possession of a weapon, as defined in this section.

150 "Employee", an individual employed by, or contracted for employment by, providing  
151 health care services at, volunteering at or participating in an educational course of instruction at a  
152 health care facility, as defined in this section.

153 "Health care facility", a hospital as defined under section 51 of chapter 111 of the general  
154 laws.

155 "Interference with the conduct of a health care facility", conduct at or in a health care  
156 facility so as to knowingly and intentionally deny an employee of the health care facility to enter,  
157 to use the facilities of or to leave any such health care facility; knowingly and intentionally  
158 impeding any employee of a health care facility from the performance of such employee's duties

159 or activities through the use of restraint, abduction, coercion or intimidation or by force and  
160 violence or threat thereof; or knowingly refusing to leave a health care facility upon being  
161 requested to leave by the employee charged with maintaining order in such health care facility, if  
162 such person is committing, threatens to commit or incites others to commit any act that did, or  
163 would if completed, disrupt, impair, interfere with or obstruct the mission, processes, procedures  
164 or functions of the health care facility.

165 “Weapon”, a firearm, knife, heavy object, health care instrument, closed fist, shod foot,  
166 or any other item that could cause bodily injury.

167 Whoever knowingly and intentionally interferes with the conduct of a health care facility  
168 shall be punished by imprisonment in the house of correction for not less than 90 days nor more  
169 than two and one-half years or by a fine of not less than \$500 nor more than \$5,000, or both.

170 Whoever knowingly and intentionally commits aggravated interference with the conduct  
171 of a health care facility shall be punished by imprisonment in state prison for not more than five  
172 years or imprisonment in a jail or house of correction for not less than 90 days nor more than two  
173 and one-half years or by a fine of not less than \$500 nor more than \$5,000, or any combination  
174 of said fines and imprisonment.

175 SECTION 5. Notwithstanding any general or special law or rule or regulation to the  
176 contrary, within twelve months of the date of enactment, the executive office of health and  
177 human services shall coordinate with the executive office of public safety and security to issue a  
178 report and recommendations to improve data sharing, communication, and collaboration between  
179 health care facilities, as defined by section 51 of chapter 111 of the general laws, and public  
180 safety and law enforcement entities. The regulations shall include but not be limited to: allowing

181 health care facilities to access reports on individuals maintained by agencies within each  
182 department of the executive office of health and human services, and public safety and law  
183 enforcement officials through a secure electronic medical record, health information exchange,  
184 or other similar software or information systems connected to health care facilities, for the  
185 purposes of improving ease of access and utilization of such data for treatment and diagnosis,  
186 and supporting integration of such data within a patient's electronic health record for purposes of  
187 treatment of diagnosis; expansion of safe and appropriate state-operated alternative placement  
188 options for patients presenting in health care facilities in acute mental health or behavioral health  
189 crisis and for whom all reasonable clinical interventions have been unsuccessful, and other  
190 alternatives, such as transfer to a more secure hospital, are unavailable, and; identifying and  
191 establishing new pathways to enter patients into the forensic system that do not require an arrest.