

SENATE No. 59

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 to assist families care for elders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mr. Montigny	Second Bristol and Plymouth
Susan C. Tucker	Second Essex and Middlesex
Thomas P. Kennedy	Second Plymouth and Bristol
Brian A. Joyce	Norfolk, Bristol and Plymouth
Sonia Chang-Díaz	Second Suffolk
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Kay Khan	11th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO ASSIST FAMILIES CARE FOR ELDERS.

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. Section 28 of Chapter 118E of the Massachusetts General Laws shall be amended
2 by adding at the end of said section the following:-

3 Payment for services pursuant to a contract between family members to provide personal care or
4 managerial services shall be considered a legally and reasonably enforceable fair market value transaction
5 if the contract meets the following criteria:

6 (1) The agreement indicates the type, frequency and duration of the services being provided to the
7 applicant or member and the amount of consideration being paid to the caregiver;

8 (2) The personal care services must enable the applicant or member to avoid or delay placement in a
9 nursing facility or facilitate the return of an applicant or member from a nursing home to the community,
10 as determined by a licensed medical professional or a licensed social worker;

11 (3) Payment for services is commensurate with a reasonable wage scale, based on the fair market value
12 of the actual job performed and the qualifications of the caregiver;

13 (4) A lump sum payment by the applicant or member for services to be provided in the future, which is
14 calculated based upon the applicant's or member's life expectancy, shall be considered an ascertainable
15 fair market value transaction, provided that the contract requires the return of any prepaid monies to the

16 applicant or member or his estate if the caregiver becomes unable to fulfill his/her duties under the
17 contract or if the applicant or member dies before his/her calculated life expectancy.

18 The department shall promulgate regulations governing the implementation of this section.

19 “Applicant” or “member” shall include the legal representative of the applicant or member.

20 “Managerial services” shall include the acquisition, coordination and monitoring of medical, financial,

21 accounting, home maintenance and legal services to benefit the applicant or member.