

SENATE No. 988

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Tilty

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 requiring health care employers to develop and implement programs to prevent workplace violence

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Tilty	Bristol and Norfolk
Michael A. Costello	1st Essex
Brian P. Wallace	4th Suffolk
Cleon H. Turner	1st Barnstable
Sarah K. Peake	4th Barnstable

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01345 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REQUIRING HEALTH CARE EMPLOYERS 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 149 of the General Laws is hereby amended by inserting after
2 section 129D, the following new section:-
3 Section 129E. (a) As used in this section, the following words shall have the following
4 meanings:-
5 “Health care employer”, any individual, partnership, association, corporation or, trust or any
6 person or group of persons employing five or more employees.
7 “Employee”, an individual employed by a health care facility; including any hospital, clinic,
8 convalescent or nursing home, charitable home for the aged, community health agency, or other
9 provider of health care services licensed, or subject to licensing by, or operated by the
10 department of public health; any state hospital operated by the department; any facility as
11 defined in section three of chapter one hundred and eleven B; any private, county or municipal

12 facility, department or unit which is licensed or subject to licensing by the department of mental
13 health pursuant to section nineteen of chapter nineteen, or by the department of mental
14 retardation pursuant to section fifteen of chapter nineteen B; any facility as defined in section
15 one of chapter one hundred and twenty-three; the Soldiers' Home in Holyoke, the Soldiers' Home
16 in Chelsea; or any facility as set forth in section one of chapter nineteen or section one of chapter
17 nineteen B.

18 (b) Each health care employer shall annually perform a risk assessment, in cooperation
19 with the employees of the health care employer and any labor organization or organizations
20 representing the employees, all factors, which may put any of the employees at risk of workplace
21 assaults and homicide. The factors shall include, but not be limited to: working in public settings;
22 guarding or maintaining property or possessions; working in high-crime areas; working late night
23 or early morning hours; working alone or in small numbers; uncontrolled public access to the
24 workplace; working in public areas where people are in crisis; working in areas where a patient
25 or resident may exhibit violent behavior; working in areas with known security problems and
26 working with a staffing pattern insufficient to address foreseeable risk factors.

27 (c) Based on the findings of the risk assessment, the health care employer shall develop
28 and implement a program to minimize the danger of workplace violence to employees, which
29 shall include appropriate employee training and a system for the ongoing reporting and
30 monitoring of incidents and situations involving violence or the risk of violence. Employee
31 training shall include education regarding reports to the appropriate public safety official(s),
32 body(s) or agency(s) and process necessary for the filing of criminal charges, in addition to all
33 employer program policies. The employer program shall be described in a written violence
34 prevention plan. The plan shall be made available to each employee and provided to an employee

35 upon request and shall be provided to any labor organization or organizations representing any of
36 the employees. The plan shall include: a list of the factors, which may endanger and are present
37 with respect to each employee; a description of the methods that the health care employer will
38 use to alleviate hazards associated with each factor, including, but not limited to, employee
39 training and any appropriate changes in job design, staffing, security, equipment or facilities; and
40 a description of the reporting and monitoring system.

41 (d) Each health care employer shall designate a senior manager responsible for the
42 development and support of an in-house crisis response team for employee-victim(s) of
43 workplace violence. Said team shall implement an assaulted staff action program that includes,
44 but is not limited to, group crisis interventions, individual crisis counseling, staff victims'
45 support groups, employee victims' family crisis intervention, peer-help and professional
46 referrals.

47 (e) The Commissioner of Labor shall adopt rules and regulations necessary to implement
48 the purposes of this act. The rules and regulations shall include such guidelines as the
49 commissioner deems appropriate regarding workplace violence prevention programs required
50 pursuant to this act, and related reporting and monitoring systems and employee training.

51 (f) Any health care employer who violates any rule, regulation or requirement made by
52 the department under authority hereof shall be punished by a fine of not more than two thousand
53 dollars for each offense. The department or its representative or any person aggrieved, any
54 interested party or any officer of any labor union or association, whether incorporated or
55 otherwise, may file a written complaint with the district court in the jurisdiction of which the
56 violation occurs and shall promptly notify the attorney general in writing of such complaint. The
57 attorney general, upon determination that there is a violation of any workplace standard relative

58 to the protection of the occupational health and safety of employees or of any standard of
59 requirement of licensure, may order any work site to be closed by way of the issuance of a cease
60 and desist order enforceable in the appropriate courts of the commonwealth.

61 (g) No employee shall be penalized by a health care employer in any way as a result of
62 such employee's filing of a complaint or otherwise providing notice to the department in regard
63 to the occupational health and safety of such employee or their fellow employees exposed to
64 workplace violence risk factors.