

HOUSE No. 2248

The Commonwealth of Massachusetts

PRESENTED BY:

Dylan A. Fernandes and Patrick Joseph Kearney

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 relative to disability pensions for violent crimes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Peter Capano</i>	<i>11th Essex</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>

<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>James M. Kelcourse</i>	<i>1st Essex</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>
<i>Alyson M. Sullivan</i>	<i>7th Plymouth</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Paul F. Tucker</i>	<i>7th Essex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>

HOUSE No. 2248

By Messrs. Fernandes of Falmouth and Kearney of Scituate, a petition (accompanied by bill, House, No. 2248) of Dylan A. Fernandes and others relative to disability pensions for violent crimes committed against certain public employees. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to disability pensions for violent crimes.

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 1 of chapter 32 of the General Laws, as appearing in the 2016
2 Official Addition, is hereby amended by inserting after the word “inclusive”, in line 599, the
3 following definition:-

4 “Violent act injury”, a serious and permanent personal bodily injury sustained as a direct
5 and proximate result of a violent attack upon a person by means of a dangerous weapon,
6 including, but not limited to, a firearm, knife, automobile, explosive device or other dangerous
7 weapon.

8 SECTION 2. Said chapter 32 is hereby further amended by striking out subsection (1) of
9 section 7 and inserting in place thereof the following subsection:-

10 Section 7. (1) Conditions of Allowance. Any member in service classified in Group 1,
11 Group 2 or Group 4, or any member in service classified in Group 3 to whom the provisions of
12 subdivision (2) of section twenty-six are not applicable, who is deemed to be physically unable

13 to perform the essential duties and responsibilities of the member's job and that such inability is
14 likely or deemed permanent before attaining the maximum age for the member's group by reason
15 of a personal injury or violent act injury sustained or a hazard undergone as a result of, and while
16 in the performance of the member's duties at some definite place and at some definite time on or
17 after the date of becoming a member or prior to such date while any provision of this chapter
18 relating to noncontributory pensions was applicable to the member, without serious and willful
19 misconduct on the member's part, upon the member's written application on a prescribed form
20 filed with the board and the member's respective employer or upon such an application by the
21 head of the member's department after a hearing, if requested, as provided for in subdivision (1)
22 of section sixteen and subject to the conditions set forth in said section and in this section, shall
23 be deemed retired for an accidental disability as of a date which shall be specified in such
24 application and which shall be not less than fifteen days nor more than four months after the
25 filing of such application but in no event later than the maximum age for the member's group.
26 Except as provided for in subdivision (3) of this section, no such retirement shall be allowed
27 unless such injury or violent act injury was sustained or such hazard was undergone within two
28 years prior to the filing of such application or, if occurring earlier, unless written notice thereof
29 was filed with the board by such member or on the member's behalf within ninety days after its
30 occurrence. No retirement under clauses (i) to (iii), inclusive, shall be allowed unless the board,
31 after a review of the evidence it deems appropriate, and after a review by the commission,
32 pursuant to the provisions of section twenty-one, and including in any event on examination by
33 the regional medical panel provided for in subdivision (3) of section six and including a
34 certification of such incapacity by a majority of the physicians on such medical panel, shall find
35 that such member is physically unable to perform the essential duties of the member's job and

36 that such inability is likely to be permanent, and that the member should be so retired. No
37 retirement under clause (iv) shall be allowed unless the board, after a review of the evidence it
38 deems appropriate, and after a review by the commission, pursuant to the provisions of section
39 twenty-one, and including in any event on examination by the regional medical panel provided
40 for in subdivision (3) of section six and including a certification of such incapacity by a majority
41 of the physicians on such medical panel, shall find that such member is physically unable to
42 perform the essential duties of the member's job because of a violent act injury and that such
43 inability is likely to be permanent, and that the member should be so retired. Any member who
44 was injured while a member of a retirement system established in any governmental unit other
45 than that by which the member is presently employed, and who has complied with the provisions
46 of this section as to notice, or whose case falls under paragraph (3), shall file such application
47 with the retirement board of the unit where he is presently employed. Such board shall secure a
48 statement of facts and records, which it shall be the duty of the retirement board of the first
49 governmental unit to furnish, and on which it shall be entitled to make recommendations.

50 Prior to the determination of a retirement under this section, a member shall submit to the
51 retirement board a written statement authorizing release of information from the federal internal
52 revenue service and the department of revenue relative to the annual gross earned income of the
53 member in pursuant to an agreement between the federal internal revenue service, the department
54 of revenue, and the public employee retirement administration commission in accordance with
55 section ninety-one A.

56 SECTION 3. Paragraph (a) of subsection (2) of said section 7 of said chapter 32 is hereby
57 amended by inserting after clause (iii) the following clause:-

58 (iv) A yearly amount of pension for any member classified as Group 4, paid monthly,
59 equal to 100 per cent of their regular compensation, including all applicable benefits and
60 stipends, that the member was earning on the date that such injury was deemed a violent act
61 injury, as defined in section 1 of this chapter. The annual amount of pension payable to such
62 member shall be equal to the regular rate of compensation which the member would have been
63 paid had the member continued in service at the grade held by the member at the time of their
64 retirement until their death or reaching mandatory retirement age, whichever comes first;
65 provided that, if the member reaches the mandatory retirement age, the member shall be entitled
66 thereafter to 80 per cent of the average annual rate of compensation paid to the member in the
67 previous 12 months, including any cost of living increases, as defined in sections 102 and 103 of
68 this chapter. Upon retirement, the member shall receive a lump sum payment from the applicable
69 retirement board equal to the member's total accumulated retirement deductions. In the event
70 that the member shall predecease their spouse, the member's spouse shall be entitled to 75 per
71 cent of the member's annual pension, paid monthly, as long as such spouse shall live; provided
72 that, when the member would have reached the mandatory retirement age, the member's spouse
73 shall continue to be entitled to 75 per cent of the member's annual pension, including any cost of
74 living increases, as defined in sections 102 and 103 of this chapter, that the member would have
75 received upon reaching the mandatory retirement age. In the event that the member and the
76 member's spouse predecease their children, the member's surviving unmarried children, if any,
77 who are under age 18 or, if over that age and under age 22, are full-time students at an accredited
78 educational institution, or who are over age 18 and physically or mentally incapacitated from
79 earning income on the date of such member's retirement, shall be entitled to receive a pension of
80 equal proportion, paid monthly, which shall total 75 per cent of the amount of the pension

81 payable to the member at the time of their death. The words “full-time student” and “accredited
82 educational institutions” shall have the same meaning that they have under clause (iii). When a
83 child no longer meets the qualifications for receipt of a pension allocation under this section, said
84 child’s pension allocation shall cease and any remaining qualified children shall continue to
85 receive the same amount each received before any child’s allocation ceased.

86 Any member eligible to receive a pension under clause (iv) shall be indemnified for all
87 hospital, medical and other healthcare expenses, not otherwise covered by health insurance,
88 related to treatment of injuries that have been or may be incurred after the date of the member’s
89 retirement as a result of the injuries sustained by the member while in the performance of the
90 member’s duties.

91 Nothing in this section or any other section of the general laws or regulations shall limit
92 the member’s aforementioned retirement benefit or restrict the member from seeking
93 accommodating employment by any entity or agency which is not classified under Groups 1-4,
94 inclusive, of the retirement system.

95 Nothing in this section shall prohibit a member under clause (iv), or such member’s
96 eligible spouse or children, from receiving additional retirement benefits not required by this
97 section.