

**HOUSE . . . . . No. 00541**

The Commonwealth of Massachusetts

PRESENTED BY:

***Tom Sannicandro***

*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 relative to improving quality in early education and care by family child care providers .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>William "Smitty" Pignatelli</i>	<i>4th Berkshire</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Geraldine Creedon</i>	<i>11th Plymouth</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>

<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Brian Ashe</i>	<i>2nd Hampden</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Michael Finn</i>	<i>6th Hampden</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Gailanne Cariddi</i>	<i>1st Berkshire</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>David M. Torrisi</i>	<i>14th Essex</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>James E. Vallee</i>	<i>10th Norfolk</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Michael F. Kane</i>	<i>5th Hampden</i>
<i>Russell Holmes</i>	<i>6th Suffolk</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Christopher N. Speranzo</i>	<i>3rd Berkshire</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Joyce A. Spiliotis</i>	<i>12th Essex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>

<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>

# HOUSE . . . . . No. 00541

By Mr. Sannicandro of Ashland, a petition (accompanied by bill, House, No. 541) of Tom Sannicandro and others for legislation to include family child care providers under certain collective bargaining laws governing public employees. Labor and Workforce Development.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to improving quality in early education and care by family child care providers .

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Whereas, The deferred operation of this act would tend to defeat its purpose, which is to  
2 establish forthwith a system for improving the quality of family child care services in the  
3 commonwealth and to provide collective bargaining rights for providers of such services,  
4 therefore it is hereby declared to be an emergency law, necessary for the immediate preservation  
5 of the public convenience.

6 Be it enacted by the Senate and House of Representatives in General Court assembled, and by  
7 the authority of the same, as follows:

8 SECTION 1. Section 2 of chapter 15D of the General Laws, as appearing in the 2008 Official  
9 Edition, is hereby amended by adding the following paragraph: -

10 (u) subject to appropriation and notwithstanding any general or special law to the contrary,  
11 assure quality early education and care provided to children through family child care providers

12 by working cooperatively with family child care providers to build upon the existing system and  
13 continuously improve the delivery of high quality early education and care services for eligible  
14 low income families through providers who have the requisite skills and training.

15 SECTION 2. Said chapter 15D is hereby further amended by adding the following section:-

16 Section 17. (a) As used in this section the following terms shall have the following meanings:-

17 “Division”, the division of labor relations established by section 9O of chapter 23.

18 “Employee organization”, an employee organization as defined in section 1 of chapter 150E.

19 “Family child care services”, child care services provided for less than 24 hours per day in the  
20 residence of the provider on behalf of low-income and other at risk children, for which payment  
21 from the commonwealth is made pursuant to a rate structure for voucher and contracted  
22 payments.

23 “Family child care provider”, a person who provides family child care services on behalf of low-  
24 income and other at risk children and receives payment from the commonwealth for such  
25 services pursuant to a rate structure for voucher and contracted payments.

26 (b) Family child care providers shall be considered public employees, as defined by and solely  
27 for the purposes of, chapter 150E and section 17J of chapter 180. Said chapter 150E, including  
28 subsection (c) of section 7, shall apply to family child care providers except to the extent that  
29 chapter 150E is inconsistent with this section, in which case this section shall control. In  
30 addition, family child care providers shall be treated as state employees solely for the purposes of  
31 sections 17A and 17G of chapter 180. Family child care providers shall not be considered public  
32 employees or state employees for any purpose other than those set forth in this paragraph. The

33 department, acting through the commissioner, shall be the employer, solely for the purposes of  
34 said chapter 150E and sections 17A, 17G and 17J of said chapter 180 and deductions under said  
35 sections 17A, 17G and 17J may be made by any entity authorized by the commonwealth to  
36 compensate family child care providers pursuant to a rate structure for voucher and contracted  
37 payments. Family child care providers shall not be eligible for benefits through the group  
38 insurance commission, the state board of retirement or the state employee workers' compensation  
39 program.

40 (c) Family child care providers who are employees of the commonwealth under this section are  
41 not, for that reason, public employees or employees of the commonwealth for any other purpose.  
42 Nothing in this chapter shall alter the obligations of the commonwealth or the parent or legal  
43 guardian of the child receiving family child care services to provide their share of social security,  
44 federal and state unemployment taxes, Medicare and workers' compensation insurance under the  
45 Federal Insurance Contributions Act, federal and state unemployment law, the Massachusetts  
46 Workers' Compensation Act or vicarious liability in tort.

47 (d) Consistent with section 9A of chapter 150E, no family child care provider shall engage in a  
48 strike and no family child care provider shall induce, encourage or condone any strike, work  
49 stoppage, slowdown or withholding of services by any family child care provider.

50 (e) The only appropriate bargaining unit for family child care providers shall consist of all family  
51 child care providers in the commonwealth who are on the most current list provided by the  
52 commissioner, regardless of the number of hours of care such family child care providers have  
53 worked.

54 (f) An employee organization seeking to represent family child care providers shall file with the  
55 division in accordance with the provisions of section 4 of chapter 150E.

56 (g) The mandatory subjects as to which the department and an employee organization certified  
57 by the division as the bargaining representative of family child care providers shall bargain shall  
58 include developing and encouraging greater education and training opportunities for family child  
59 care providers, improvement of recruitment and retention of qualified providers and  
60 reimbursement and payment procedures. Nothing in this legislation shall inhibit the parties from  
61 discussing other permissive subjects of bargaining, including without limitation the rate structure  
62 for family child care providers.

63 (h) In addition to the mandatory subjects set forth in clause (g), the department and an employee  
64 organization certified by the division as the bargaining representative of family child care  
65 providers shall bargain about the rate structure for voucher and contracted payments for family  
66 child care services on behalf of low-income and other at risk children.

67 (i) Nothing in this section shall modify any right of a parent or legal guardian to choose,  
68 terminate the services of, or otherwise supervise a family child care provider.

69 (j) Nothing in this section shall alter or abridge the department's statutory rights and  
70 responsibilities to visit, inspect and monitor facilities, or to suspend, revoke, sanction, assess  
71 fines or take any other action against a provider's license in furtherance of this chapter, inclusive  
72 of sections 6 to 10, and in furtherance of the department's regulations promulgated in this regard.  
73 The collective bargaining process and the grievance procedures described in chapter 150E,  
74 including section 8 of chapter 150E, shall not apply to the department's statutory and regulatory  
75 licensing, monitoring and enforcement functions.

76 (k) Collective bargaining and related activity by providers, as authorized pursuant to this section,  
77 shall qualify for the state action exemption to the federal anti-trust laws.

78 SECTION 3. The first paragraph of subsection (c) of section 7 of chapter 150E of the General  
79 Laws, as amended by section 100 of chapter 25 of the acts of 2009, is hereby further amended by  
80 inserting after the word “council” the following words:- , the department of early education and  
81 care with regard to bargaining with family child care providers.

82 SECTION 4. The first sentence of section 17G of chapter 180, as amended by section 1 of  
83 chapter 45 of the acts of 2009, is hereby further amended by inserting after the words “workforce  
84 council”, added by said section 1 of said chapter 45, the following words:- or a collective  
85 bargaining agreement with the department of early education and care covering family child care  
86 providers.

87 SECTION 5. Clause (h) of section 17 of chapter 15D of the General Laws, as set forth in section  
88 2 of this act, shall take effect on July 1, 2012.