

**HOUSE . . . . . No. 544**

The Commonwealth of Massachusetts

PRESENTED BY:

*Kay Khan*

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 caring for elders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>

<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>

**HOUSE . . . . . No. 544**

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By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 544) of Kay Khan and others relative to personal care or managerial services contracts for families caring for elderly relatives. Elder Affairs.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION

SEE

HOUSE  
 , NO. 1097 OF 2011-2012.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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An Act to assist families caring 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 28 of chapter 118E of the Massachusetts General Laws shall be amended by  
2 adding at the end of said section the following:

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

6 (1) The agreement indicates the type, frequency and duration of the services being  
7 provided to the 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  
9 placement in a nursing facility or facilitate the return of an applicant or member from a nursing  
10 home to the community, as determined by a licensed medical professional or a licensed social  
11 worker;

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

14 (4) A lump sum payment by the applicant or member for services to be provided in the  
15 future, which is calculated based upon the applicant's or member's life expectancy, shall be  
16 considered an ascertainable fair market value transaction, provided that the contract requires the  
17 return of any prepaid monies to the applicant or member or his estate if the caregiver becomes  
18 unable to fulfill his/her duties under the contract or if the applicant or member dies before his/her  
19 calculated life expectancy.

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

22 "Applicant" or "member" shall include the legal representative of the applicant or  
23 member.

24 "Managerial services" shall include the acquisition, coordination and monitoring of  
25 medical, financial, accounting, home maintenance and legal services to benefit the applicant or  
26 member.