

SENATE No. 1089

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 to protect unpaid interns, volunteers, and independent contractors from sexual harassment and other forms of discrimination.

PETITION OF:

NAME:

Joan B. Lovely

DISTRICT/ADDRESS:

Second Essex

SENATE No. 1089

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1089) of Joan B. Lovely for legislation to protect unpaid interns, volunteers, and independent contractors from sexual harassment and other forms of discrimination. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to protect unpaid interns, volunteers, and independent contractors from sexual harassment and other forms of discrimination.

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 151B is hereby amended by inserting at the beginning
2 of line 15 the following sentence:-

3 The term “employer” means any organization or individual who engages a person to
4 perform work on their behalf or on behalf of their subsidiaries, customers or clients, whether
5 such work is paid or unpaid.

6 SECTION 2. Section 1 of chapter 151B is hereby further amended by inserting at the
7 beginning of line 34 the following sentence:-

8 The term “employee” means any individual who engages in work under the control and
9 direction of another, whether such work is paid or unpaid.

10 SECTION 3. Section 4 of chapter 151B is hereby amended by inserting after line 860 the
11 following:-

12 20. It shall be an unlawful practice for an employer, labor organization, employment
13 agency, apprenticeship training program or any training program leading to employment, or any
14 other person to discriminate against any person in the selection, discharge, training, terms or
15 treatment of that person in an apprenticeship, training program, an unpaid internship, or a
16 volunteer program, or any other program designed to provide unpaid work, because of the race,
17 color, religious creed, national origin, sex, handicap, gender identity, genetic information,
18 pregnancy, ancestry, military and veteran status, or sexual orientation. Apprentices, trainees,
19 unpaid interns, and volunteers may file a complaint alleging unlawful discrimination. A limited
20 employment relationship for the purpose of providing protection from discrimination to all
21 persons in the workplace, whether paid or unpaid shall exist, provided, however, that this
22 relationship shall not create an employment relationship under wage and hour provision,
23 workers' compensation, or unemployment insurance.

24 21. It shall be an unlawful practice for an employer, labor organization, employment
25 agency, apprenticeship training program or any training program leading to employment, or any
26 other person, because of the race, color, religious creed, national origin, sex, handicap, gender
27 identity, genetic information, pregnancy, ancestry, military and veteran status, or sexual
28 orientation, to harass an applicant, apprentice, trainee, unpaid intern, or a volunteer. An employer
29 may be held liable to an applicant, apprentice, trainee, unpaid intern, or volunteer, with respect to
30 unlawful harassment, when the employer, its agents or supervisors knew or should have known
31 that such applicant, apprentice, trainee, unpaid intern, or volunteer was subjected to harassment
32 in the employer's workplace, and the employer failed to take immediate and appropriate
33 corrective action. A limited employment relationship for the purpose of providing protection
34 from discrimination to all persons in the workplace, whether paid or unpaid shall exist, provided,

35 however, that this relationship shall not create an employment relationship under wage and hour
36 provision, workers' compensation, or unemployment insurance.

37 22. It shall be an unlawful practice for an employer because of the race, color, religious
38 creed, national origin, sex, handicap, gender identity, genetic information, pregnancy, ancestry,
39 military and veteran status, or sexual orientation of any individual or independent contractor, to
40 refuse to contract with such individual or independent contractor, or to otherwise discriminate
41 against such individual or independent contractor with respect to compensation, hire, tenure,
42 terms, conditions or privileges of contract. An independent contractor or individual may file a
43 complaint alleging unlawful discrimination.

44 23. It shall be an unlawful practice for an employer to permit harassment against non-
45 employees in its workplace based on race, color, religious creed, national origin, sex, handicap,
46 gender identity, genetic information, pregnancy, ancestry, military and veteran status, or sexual
47 orientation. An employer may be held liable to a non-employee who is a contractor,
48 subcontractor, vendor, consultant or other person providing services pursuant to a contract in the
49 workplace or who is an employee of such contractor, subcontractor, vendor, consultant or other
50 person providing services pursuant to a contract in the workplace, when the employer, its agents
51 or supervisors knew or should have known that such non-employee was subjected to harassment
52 in the employer's workplace, and the employer failed to take immediate and appropriate
53 corrective action. In reviewing such cases involving non-employees, the extent of the employer's
54 control and any other legal responsibility that the employer may have with respect to the conduct
55 of the harasser shall be considered. Non-employees may file a complaint alleging unlawful
56 discrimination.

57 24. It shall be unlawful for any person, employer, labor organization or employment
58 agency to harass, discharge, expel or otherwise discriminate against any person because he or she
59 has opposed any practices forbidden under this chapter or because he or she has filed a
60 complaint, testified or assisted in any proceeding under this chapter.