

SENATE No. 1138

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 clarifying a right of a durable power of attorney.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/28/2025</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/29/2025</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/21/2025</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/26/2025</i>

SENATE No. 1138

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1138) of John F. Keenan, Jason M. Lewis, Brendan P. Crighton, Patrick M. O'Connor and others for legislation to clarify a right of a durable power of attorney. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act clarifying a right of a durable power of attorney.

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 103 of chapter 203E of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended to insert after the definition of “charitable trust”, the
3 following definition:- ““Durable power of attorney”, the means by which a principal shall
4 designate another as the principal’s attorney in fact in writing in the manner described in section
5 5-501 of chapter 190B.”

6 SECTION 2. Said section 103 of said chapter 203E is hereby further amended by adding
7 after the definition of “settlor”, the following definition:- ““Settlor’s agent”, a person acting on
8 behalf of a settlor, as an agent acting pursuant to a durable power of attorney, expressly
9 authorizing the agent to create a trust on the settlor’s behalf ; provided, said agent’s actions
10 accord with sections 5-501 to 5-507, inclusive, of chapter 190B. A settlor’s agent shall also
11 include a person appointed by a court of competent jurisdiction to act on behalf of the settlor in
12 the creation of a trust using one or more methods described in section 401.”

13 SECTION 3. Section 401 of said chapter 203E is hereby amended in subsection (1) by
14 inserting after the word “property” the following words:- “by the settlor or the settlor’s agent”.

15 SECTION 4. Section 402 of said chapter 203E is hereby amended to insert in subsection
16 (a)(1), after the word “settlor”, the following words:- “or the settlor’s agent”.

17 SECTION 5. Said section 402 of said chapter 203E is hereby further amended by
18 inserting in subsection (a)(2) after the word “settlor” the following words:- “or the settlor’s
19 agent”.