HOUSE DOCKET, NO. 1511 FILED ON: 1/17/2013

HOUSE . . . . . No. 142

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Poirier

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:

An Act relative to the licensure and regulation of au pair and nanny agencies by the Department of Early Education and Care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Elizabeth A. Poirier	*14th Bristol*

HOUSE DOCKET, NO. 1511 FILED ON: 1/17/2013

HOUSE . . . . . No. 142

By Ms. Poirier of North Attleborough, a petition (accompanied by bill, House, No. 142) of Elizabeth A. Poirier relative to the licensure and regulation of au pair and nanny agencies by the Office of Child Care Services. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *73* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act relative to the licensure and regulation of au pair and nanny agencies by the Department of Early Education and Care.

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

SECTION 1. Chapter 15D of the 2010 Mass. General Laws is hereby amended by adding, after section 7C, the following new section:—

Section 7D. The Department of Early Education and Care, hereafter known as the Department, is hereby authorized and directed to establish, implement, provide oversight to, and promulgate regulations for, a licensure and approval process for employment and placement agencies as defined in section two of this chapter, who are engaged in placing au pairs and nannies, as defined in section two of this chapter, in a private residence for the purposes of performing child care services and duties on a full time or regular basis.

Such agencies shall provide verification to the Department to the effect that each au pair and nanny, prior to being placed in a private residence, and wherein stated during said placement, has met the specific standards and criteria stated in this section, and shall develop forms and procedures approved by the Department for such verification. No employment or placement agency shall place any person defined in section two for the purposes of providing child care services unless the standards approved by the Department and all other statutory and regulatory obligations are fulfilled. The Commissioner of the Department, in conjunction with the employment or placement agency, may exercise discretion and flexibility in the evaluation and consideration of standards to be met and in determinations of substitute or alternative criteria

18 which would fulfill such requirements or their equivalent. The Commissioner may consider
19 documented training or experience in a child care program or school, a nursery, or other
20 acceptable participation in coursework or experience submitted by the au pair and nanny through
21 the employment or placement agency as equivalent criteria required to meet educational and
22 training standards. The Commissioner may accept as fulfillment of the requirements, and may
23 further approve of, programs of education and training in child care services, child development,
24 child welfare, or other, or certification or diplomas or degrees received by au pairs and nannies in
25 their home countries, as approved of and verified by, the placement or employment agency in its
26 submissions to the Department. The licensing of employment and placement agencies shall be
27 dependent upon the verification by the employment and placement agencies, of the following
28 requirements to be met by au pairs and nannies, which shall be fulfilled in addition to those set
29 forth in the federal regulations of the USIA, 514.31 Au Pairs, requiring a thirty-two hour training
30 period, and documented child care experiences constituting two hundred hours. However, if such
31 thirty-two hour training period becomes fully accredited by a college, university, or recognized
32 educational institute, such training hours may be applied by the Department as partial fulfillment
33 of requirements in education and training as stated in this section. The Commissioner may
34 ascertain and approve, in conjunction with the placement or employment agencies, that the
35 persons teaching child care training and educational requirements are qualified professionals.
36 The following standards and criteria shall be required of au pairs and nannies, subject to
37 conditions set forth in this section: (a) two formal standard courses, or six semester hours, in
38 early childhood education, or a certificate or vocational program in early childhood education, or
39 equivalent, either during secondary educational coursework, or during post-secondary
40 coursework in a recognized college, university other educational institution in child care training,
41 child development, child welfare, or other appropriate coursework, classes or training, including
42 substitutions in educational courses and/or work experience determined as acceptable by the
43 Commissioner; (b) participation in at least three days in-service training and education in early
44 childhood education, child development and child welfare and safety, or other such appropriate
45 child care services training, either midway through the year of the placement of the au air, or at
46 intervals during the year of placement, as approved by the Commissioner, in conjunction with
47 the employment or placement agency; (c) certification in CPR and Basic First Aid; (d) screening
48 and background checks for criminal and juvenile conduct including psychological assessments,
49 health and medical examinations, school records and attendance, which shall be provided by au
50 pairs and nannies or solicited by the employment or placement agencies through school records,
51 references from counselors, teachers, or other school personnel, police authorities, driving
52 records, or through other means available and as approved by the Commissioner. No au pair or
53 nanny as defined in section two of this chapter, who is eighteen or nineteen years of age, shall be
54 placed in a private residence for the purposes of providing child care to more than two children
55 who are each under the age of five years. The Commissioner shall provide notification to each
56 employment and placement agency to be licensed, that they and all personnel involved with the

57 au pair and nanny programs, are mandated reporters of child abuse and neglect, as stated in
58 chapter one hundred and nineteen, section fifty-one A of the Massachusetts General Laws.

59 The provisions of this chapter as applied to the licensing of placement or employment
60 agencies for au pairs and nannies, as defined in section two, shall take effect on June 30, 2014.

61 SECTION 2. Section 2 of chapter 28A is hereby amended by adding at the end the
62 following new paragraphs:—

63 For the purposes of this chapter, the following definitions shall apply.

64 "Foreign or domestic au pair and nanny placement or employment agency" — any
65 educational or cultural foundation, institution, agency, company or otherwise named, which for a
66 fee or other payment, procures, solicits, or attempts to procure or solicit, from outside or within
67 the commonwealth and from outside or within the United States, persons who enter through a J
68 Exchange Program visa, or who enter through any other visa, or to whom such persons seek
69 application, for the purposes of placement and/or employment in a private residence in the
70 commonwealth, to act in the capacity of providing child care services as an au pair or nanny,
71 either while living in the home or by providing child care in the home and living without the
72 home, on a full time or regular basis. "Au Pair" — any person, ages 18-26, who, under the
73 auspices of a cultural or educational agency or foundation or other such entity, enters the United
74 States through an "exchange visitors" visa program, to be placed in a private residence in the
75 commonwealth for the purposes of performing child care services and duties, in the capacity of a
76 primary child care worker on a full-time or regular basis.

77 "Nanny" — any person 18-26, who is placed by an agency or company in a private
78 residence, and who enters the United States and the commonwealth through any visa or is a
79 citizen of the United States and resides in the commonwealth, and who lives within or without
80 the home, for the purposes of performing child care services and duties, in the capacity of a
81 primary child care worker on a full time or regular basis.

82 SECTION 3. Section 4 of chapter 28A is hereby amended by adding, in subsection (c),
83 after the words, "family day care systems", the following words, "and au pair and nanny
84 agencies as defined in section two of this chapter."

85 SECTION 4. Section 11 of chapter 28A is hereby amended by adding, under subsection
86 (a), after the words, "temporary shelter facility", the following words, "or placement or
87 employment agency as defined in section two of this chapter."

88 SECTION 5. Section 10B of chapter 28A is hereby amended by adding at the end, the
89 following paragraphs:—

90 Au Pair and Nanny Agencies, as defined in section two of this chapter, shall be required
91 to provide quarterly reports to the Department of Early Education and Care which shall include:

92 a. the location and address of each au pair or nanny placement;

93 b. the total number of au pairs or nannies placed within the commonwealth and the areas
94 of the state in which they are placed;

95 c. any change in placement or disrupted placement, or, removal of an au pair from a
96 placement and the reasons for the change or removal; the new placement location, if applicable;

97 d. the dates of placement for each au pair or nanny and the duration of the placement;

98 e. the numbers of children and their ages in the care of each au pair or nanny;

99 f. the number of hours required for each au pair or nanny to provide child care, on a
100 weekly basis;

101 g. a summary of the training and education and other requirements to be met under this
102 Act, of each au pair and nanny placed, and the location and duration of the education and
103 training or other requirement;

104 h. the number of hours of in-service training to be required of each au pair or nanny, who
105 will provide the training and when it will occur during the placement. The au pair or nanny
106 agency shall submit to the Department, prior to any placement of an au pair or nanny,
107 documentation of each requirement to be fulfilled by the au pair or nanny and by the agency
108 itself. The Department shall review all records and documents for meeting criteria and standards
109 set forth in section 11B of this chapter for au pair and nanny agencies, as defined in section two
110 of this Act, at the inception of the licensure and approval process, and thereafter on an annual
111 basis, or more frequently if deemed necessary by the Commissioner, and shall ascertain by a
112 method developed by the Department that all requirements and credentials set forth in this Act
113 have been fulfilled. No au pair or nanny shall be placed in a private residence for the purposes of
114 providing full time child care or child care on a regular basis, without meeting all credentials and
115 requirements set forth in this Act.