

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth 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 bill:

An Act relative to the licensure and regulation of au pair and nanny agencies by the office of child care services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Elizabeth Poirier	14th Bristol

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 129 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE LICENSURE AND REGULATION OF AU PAIR AND NANNY
AGENCIES BY THE OFFICE OF CHILD CARE SERVICES.

*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. Chapter 28A of the Mass. General Laws is hereby
2 amended by adding, after section 11B, the following new section:—
3 Section 11C. The Office of Child Care Services, hereafter known
4 as the Office, is hereby authorized and directed to establish, implement,
5 provide oversight to, and promulgate regulations for, a licensure
6 and approval process for employment and placement agencies
7 as defined in section two of this chapter, who are engaged in placing
8 au pairs and nannies, as defined in section two of this chapter, in a
9 private residence for the purposes of performing child care services
10 and duties on a full time or regular basis.
11 Such agencies shall provide verification to the Office to the effect
12 that each au pair and nanny, prior to being placed in a private residence,
13 and wherein stated during said placement, has met the specific
14 standards and criteria stated in this section, and shall develop
15 forms and procedures approved by the Office for such verification.
16 No employment or placement agency shall place any person defined

17 in section two for the purposes of providing child care services
18 unless the standards approved by the Office and all other statutory
19 and regulatory obligations are fulfilled.

20 The Commissioner of the Office, in conjunction with the employment
21 or placement agency, may exercise discretion and flexibility in
22 the evaluation and consideration of standards to be met and in determinations
23 of substitute or alternative criteria which would fulfill
24 such requirements or their equivalent. The Commissioner may consider
25 documented training or experience in a child care program or
26 school, a nursery, or other acceptable participation in coursework or
27 experience submitted by the au pair and nanny through the employment
28 or placement agency as equivalent criteria required to meet
29 educational and training standards. The Commissioner may accept
30 as fulfillment of the requirements, and may further approve of, programs
31 of education and training in child care services, child development,
32 child welfare, or other, or certification or diplomas or degrees
33 received by au pairs and nannies in their home countries, as
34 approved of and verified by, the placement or employment agency in
35 its submissions to the Office.

36 The licensing of employment and placement agencies shall be
37 dependent upon the verification by the employment and placement
38 agencies, of the following requirements to be met by au pairs and
39 nannies, which shall be fulfilled in addition to those set forth in the
40 federal regulations of the USIA, 514.31 Au Pairs, requiring a thirty-two
41 hour training period, and documented child care experiences
42 constituting two hundred hours. However, if such thirty-two hour
43 training period becomes fully accredited by a college, university, or
44 recognized educational institute, such training hours may be applied
45 by the Office as partial fulfillment of requirements in education and
46 training as stated in this section. The Commissioner may ascertain
47 and approve, in conjunction with the placement or employment
48 agencies, that the persons teaching child care training and educational
49 requirements are qualified professionals.

50 The following standards and criteria shall be required of au pairs

51 and nannies, subject to conditions set forth in this section: (a) two
52 formal standard courses, or six semester hours, in early childhood
53 education, or a certificate or vocational program in early childhood
54 education, or equivalent, either during secondary educational coursework,
55 or during post-secondary coursework in a recognized college,
56 university other educational institution in child care training, child
57 development, child welfare, or other appropriate coursework, classes
58 or training, including substitutions in educational courses and/or
59 work experience determined as acceptable by the Commissioner; (b)
60 participation in at least three days in-service training and education
61 in early childhood education, child development and child welfare
62 and safety, or other such appropriate child care services training,
63 either midway through the year of the placement of the au air, or at
64 intervals during the year of placement, as approved by the Commissioner,
65 in conjunction with the employment or placement agency; (c)
66 certification in CPR and Basic First Aid; (d) screening and background
67 checks for criminal and juvenile conduct including psychological
68 assessments, health and medical examinations, school
69 records and attendance, which shall be provided by au pairs and nannies
70 or solicited by the employment or placement agencies through
71 school records, references from counselors, teachers, or other school
72 personnel, police authorities, driving records, or through other
73 means available and as approved by the Commissioner.

74 No au pair or nanny as defined in section two of this chapter, who
75 is eighteen or nineteen years of age, shall be placed in a private residence
76 for the purposes of providing child care to more than two children
77 who are each under the age of five years.

78 The Commissioner shall provide notification to each employment
79 and placement agency to be licensed, that they and all personnel
80 involved with the au pair and nanny programs, are mandated
81 reporters of child abuse and neglect, as stated in chapter one hundred
82 and nineteen, section fifty-one A of the Massachusetts General
83 Laws.

84 The provisions of this chapter as applied to the licensing of placement

85 or employment agencies for au pairs and nannies, as defined in
86 section two, shall take effect on June 30, 2006.

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

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

91 “Foreign or domestic au pair and nanny placement or employment
92 agency” — any educational or cultural foundation, institution,
93 agency, company or otherwise named, which for a fee or other payment,
94 procures, solicits, or attempts to procure or solicit, from out-
95 side or within the commonwealth and from outside or within the
96 United States, persons who enter through a J Exchange Program
97 visa, or who enter through any other visa, or to whom such persons
98 seek application, for the purposes of placement and/or employment
99 in a private residence in the commonwealth, to act in the capacity of
100 providing child care services as an au pair or nanny, either while
101 living in the home or by providing child care in the home and living
102 without the home, on a full time or regular basis.

103 “Au Pair” — any person, ages 18-26, who, under the auspices of
104 a cultural or educational agency or foundation or other such entity,
105 enters the United States through an “exchange visitors” visa program,
106 to be placed in a private residence in the commonwealth for
107 the purposes of performing child care services and duties, in the
108 capacity of a primary child care worker on a full-time or regular
109 basis.

110 “Nanny” — any person 18-26, who is placed by an agency or
111 company in a private residence, and who enters the United States
112 and the commonwealth through any visa or is a citizen of the United
113 States and resides in the commonwealth, and who lives within or
114 without the home, for the purposes of performing child care services
115 and duties, in the capacity of a primary child care worker on a full
116 time or regular basis.

117 SECTION 3. Section 4 of chapter 28A is hereby amended by
118 adding, in subsection (c), after the words, “family day care systems”,

119 the following words, “and au pair and nanny agencies as defined in
120 section two of this chapter,”.

121 SECTION 4. Section 11 of chapter 28A is hereby amended by
122 adding, under subsection (a), after the words, “temporary shelter
123 facility”, the following words, “or placement or employment agency
124 as defined in section two of this chapter.”

125 SECTION 5. Section 10B of chapter 28A is hereby amended by
126 adding at the end, the following paragraphs:— Au Pair and Nanny
127 Agencies, as defined in section two of this chapter, shall be required
128 to provide quarterly reports to the Office of Child Care Services
129 which shall include: a. the location and address of each au pair or
130 nanny placement; b. the total number of au pairs or nannies placed
131 within the commonwealth and the areas of the state in which they
132 are placed; c. any change in placement or disrupted placement, or,
133 removal of an au pair from a placement and the reasons for the
134 change or removal; the new placement location, if applicable; d. the
135 dates of placement for each au pair or nanny and the duration of the
136 placement; e. the numbers of children and their ages in the care of
137 each au pair or nanny; f. the number of hours required for each au
138 pair or nanny to provide child care, on a weekly basis; g. a summary
139 of the training and education and other requirements to be met under
140 this Act, of each au pair and nanny placed, and the location and
141 duration of the education and training or other requirement; h. the
142 number of hours of in-service training to be required of each au pair
143 or nanny, who will provide the training and when it will occur
144 during the placement. The au pair or nanny agency shall submit to
145 the Office, prior to any placement of an au pair or nanny, documentation
146 of each requirement to be fulfilled by the au pair or nanny and
147 by the agency itself. The Office shall review all records and documents
148 for meeting criteria and standards set forth in section 11B of
149 this chapter for au pair and nanny agencies, as defined in section two
150 of this Act, at the inception of the licensure and approval process,
151 and thereafter on an annual basis, or more frequently if deemed necessary
152 by the Commissioner, and shall ascertain by a method developed

153 by the Office that all requirements and credentials set forth in
154 this Act have been fulfilled. No au pair or nanny shall be placed in a
155 private residence for the purposes of providing full time child care or
156 child care on a regular basis, without meeting all credentials and
157 requirements set forth in this Act.