

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Walsh, Marian (SEN)

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 concerning the public duty rule.

PETITION OF:

NAME:

Walsh, Marian (SEN)

DISTRICT/ADDRESS:

Suffolk and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01037 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT CONCERNING THE PUBLIC DUTY RULE.

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 10 of chapter 258 of the General Laws, as appearing in the 2004
2 Official Edition, is hereby amended by adding after subparagraph (j) the following new
3 subparagraph: -
4 (k) Notwithstanding the provisions contained in sections (e) through (j), inclusive, where the
5 threat of harm created by the negligent act or failure to act of a public employer or employee was
6 of a reasonably foreseeable nature, and a claim is brought by a party who could not reasonably
7 have protected himself or herself from that threat of harm, a special relationship and duty of care
8 shall exist between the public employer or employee and that party. Where this special
9 relationship and duty of care exists or is owed, the public employer shall be liable for any harm
10 caused by the negligent act or failure to act of the public employer or employee.