HOUSE DOCKET, NO. 689 FILED ON: 1/19/2011

HOUSE . . . . . No. 469

The Commonwealth of Massachusetts

PRESENTED BY:

Ronald Mariano

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 relating to comprehensive protection from childhood sexual abuse.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ronald Mariano	*3rd Norfolk*
Russell E. Holmes	*6th Suffolk*
Garrett J. Bradley	*3rd Plymouth*
Stephen Stat Smith	*28th Middlesex*
Alice Hanlon Peisch	*14th Norfolk*
Alice K. Wolf	*25th Middlesex*
Shaunna O'Connell	*3rd Bristol*
Carlo Basile	*1st Suffolk*
F. Jay Barrows	*1st Bristol*
Edward F. Coppinger	*10th Suffolk*
Jennifer E. Benson	*37th Middlesex*
Cheryl A. Coakley-Rivera	*10th Hampden*
Angelo J. Puppolo, Jr.	*12th Hampden*
Kay Khan	*11th Middlesex*
Anne M. Gobi	*5th Worcester*
Ruth B. Balser	*12th Middlesex*
John D. Keenan	*7th Essex*
John J. Binienda	*17th Worcester*

Patricia A. Haddad	*5th Bristol*
Jason M. Lewis	*31st Middlesex*
Denise Andrews	*2nd Franklin*
Lori A. Ehrlich	*8th Essex*
Carlos Henriquez	*5th Suffolk*
Michael D. Brady	*9th Plymouth*
James J. Dwyer	*30th Middlesex*
David Paul Linsky	*5th Middlesex*
Christine E. Canavan	*10th Plymouth*
Thomas P. Conroy	*13th Middlesex*
Vincent A. Pedone	*15th Worcester*
Sean Garballey	*23rd Middlesex*
Theodore C. Speliotis	*13th Essex*
Louis L. Kafka	*8th Norfolk*
Antonio F. D. Cabral	*13th Bristol*
Bradley H. Jones, Jr.	*20th Middlesex*
Cleon H. Turner	*1st Barnstable*
Walter F. Timilty	*7th Norfolk*
William C. Galvin	*6th Norfolk*
Steven A. Baddour	☐ *[District]* ☐
Tackey Chan	*2nd Norfolk*
Ann-Margaret Ferrante	*5th Essex*
Thomas M. Petrolati	*7th Hampden*
David B. Sullivan	*6th Bristol*

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By Mr. Mariano of Quincy, a petition (accompanied by bill, House, No. 469) of Ronald Mariano and others for legislation to provide for comprehensive protection from childhood sexual abuse. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1523* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relating to comprehensive protection from childhood sexual abuse.

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. This Act may be cited as The Protection from Sexual Predators Act of 2011.

SECTION 2. Section 51A of Chapter 119 of the General Laws, as most recently amended by Section 97 of Chapter 176 of the Acts of 2008, shall be amended by adding at the end of subsection (k) the following paragraph:

All corporations and other institutions, which employ mandated reporters not professionally licensed by the commonwealth, shall institute a program to implement the reporting requirements of this section. Such program shall include, at a minimum, (i) the promulgation of a written protocol to be followed when a 51A report is required; (ii) an education program for each mandated reporter; and (iii) the posting, in a prominent public location, of the requirements of this section and the penalties for non-compliance.

SECTION 3. Section 51A of Chapter 119 of the General Laws, as most recently amended by Section 96 of Chapter 176 of the Acts of 2008, shall be amended by inserting, in the last sentence of subsection (c), the words “a sexual assault or” before the words “ serious bodily injury.”

16 SECTION 4. Section 51A of Chapter 119 of the General Laws, as most recently
17 amended by Section 96 of Chapter 176 of the Acts of 2008, shall be amended by adding at the
18 end of subsection (c) the following sentence:

19 Any corporation or other institution which employs a mandated reporter who fails to
20 make a report required by this section, shall be punished by a fine of not more than one hundred
21 thousand dollars. It shall be a defense to any prosecution under this section that the corporation
22 or other institution had complied with the requirements of subsection (k).

23 SECTION 5. Section 51A of Chapter 119 of the General Laws, as most recently
24 amended by Section 95 of Chapter 176 of the Acts of 2008, shall be amended by adding at the
25 end of subsection (a) the following paragraph:

26 A mandated reporter who has reasonable cause to believe that a person who is alleged to
27 have sexually abused a child in the past, presently represents a credible threat to a child under the
28 age of eighteen years in a child or youth serving organization, shall have the same obligation to
29 make oral and written reports of such threat to the appropriate law enforcement agency or
30 official and the department.

31 SECTION 6. Chapter 258C of the General Laws is hereby amended by striking out
32 section 2 (b), as so appearing, and inserting in place thereof the following section: -

33 (b) No compensation shall be paid under this chapter unless the claimant demonstrates
34 that the crime was reported to the police or other law enforcement authorities or to an agency or
35 entity obligated by law to report complaints of criminal misconduct to law enforcement
36 authorities. Except in the case where the division finds such report to have been delayed for good
37 cause, such report shall have been made within five days after the occurrence of such crime. In
38 the case of a claimant who was sexually abused as a minor, such good cause shall include the
39 report of any duly licensed mental health professional stating an opinion that the claimant did not
40 make the connection between the sexual abuse and the harm suffered as a result by the claimant
41 at the time the abuse occurred, and that claimant's failure to make the connection was consistent
42 with the typical responses by such victims of childhood sexual abuse.

43 SECTION 7. Chapter 258C of the General Laws is hereby amended by striking out
44 section 5 (a) (1), as so appearing, and inserting in place thereof the following section: -

45 (a) (1) A claim for compensation under this chapter shall be filed within three years of
46 the date of the crime. In the case of a claimant who was sexually abused as a minor, said three
47 years shall commence to run when the claimant first makes the connection between the sexual
48 abuse and the harm suffered as a result by the claimant. The report of any duly licensed mental
49 health professional stating an opinion as to the date when the claimant first made the connection
50 between the sexual abuse and the harm suffered by the claimant, and that the claimant's failure to

51 make the connection prior to that date was consistent with the typical responses by such victims
52 of childhood sexual abuse, shall be prima facie evidence in all proceedings under this chapter.

53 SECTION 8. Chapter 277 of the General Laws is hereby amended by adding at the end
54 of section 63, as so appearing, the following paragraph: -

55 Notwithstanding any other provision of this section, an indictment or complaint alleging
56 an offense of indecent assault and battery, or an offense of rape, may be found and filed at any
57 time after the commission of such offense, provided that the victim was under the age of 18
58 when the offense was committed.

59 SECTION 9. Section 4C of Chapter 260 of the General Laws, as appearing in the 2004
60 Official Edition, shall be amended by striking out the first paragraph thereof as so appearing, and
61 inserting in place thereof the following:

62 Any actions for assault and battery alleging the defendant sexually abused a minor, or for
63 negligence alleging that the defendant negligently supervised a third person who sexually abused
64 a minor, or that the defendant's conduct caused or contributed to the sexual abuse of a minor by a
65 third person, may be commenced at any time.

66 SECTION 10. Section 85K of Chapter 231 of the General Laws, as appearing in the
67 2004 Official Edition, shall be amended by adding at the end thereof the following:

68 Notwithstanding any other provision of this section, the limitations on liability set forth
69 in this section shall not apply if the claim is for intentional or negligent conduct which caused or
70 contributed to the sexual abuse of a minor. For purposes of this section, "sexual abuse" shall be
71 defined as set forth in section 4C of chapter 260.

72 SECTION 11. Section 85W of Chapter 231 of the General Laws, as appearing in the
73 2004 Official Edition, shall be amended by adding at the end thereof the following:

74 Notwithstanding any other provision of this section, the limitations on liability set forth
75 in this section shall not apply if the claim is for intentional or negligent conduct which caused or
76 contributed to the sexual abuse of a minor. For purposes of this section, "sexual abuse" shall be
77 defined as set forth in section 4C of chapter 260.

78 SECTION 12. The provisions of Sections 9, 10 & 11 shall apply to all claims under
79 Section 4C of Chapter 260 which have accrued, and to all actions which are pending, on the date
80 upon which it becomes effective.

81 SECTION 13. The provisions of Sections 9, 10 & 11 shall be deemed to be retroactive
82 to the fullest extent permitted under the Constitution of the United States and the Declaration of
83 Rights of the Commonwealth of Massachusetts.

84 SECTION 14. The provisions of this bill shall become effective upon passage.

85 SECTION 15. Each section of this Act shall be separable and shall continue in effect if
86 any provision hereof is deemed to be unconstitutional or otherwise ineffective.