

HOUSE No. 1346

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

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 relative to the sentencing of children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>1/20/2011</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/25/2011</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/27/2011</i>
<i>Patricia D. Jehlen</i>		<i>1/28/2011</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>	<i>2/2/2011</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>	<i>2/2/2011</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>	<i>2/3/2011</i>
<i>William N. Brownsberger</i>		<i>2/3/2011</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2011</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>2/3/2011</i>
<i>James B. Eldridge</i>		<i>2/3/2011</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>	<i>2/4/2011</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>	<i>2/4/2011</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>2/4/2011</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/4/2011</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>2/4/2011</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>	<i>2/4/2011</i>

HOUSE No. 1346

By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 1346) of Elizabeth A. Malia and others relative to the sentencing of children accused of certain crimes. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the sentencing of children.

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. Paragraph 2 of section 4 of chapter 27 of the General Laws, as appearing in
2 the 2008 Official Edition, is hereby amended by inserting after the third sentence the following
3 sentence:-

4 At least one person on said list shall be a professional with not less than five years of
5 experience and training in adolescent development and psychology, and shall be selected from a
6 list of proposed nominees provided by the following organizations: the Massachusetts chapter of
7 the American Academy of Pediatrics; the New England Council of Child and Adolescent
8 Psychiatry, Inc.; the Massachusetts Psychological Association, Inc.; the Massachusetts
9 Psychiatric Society, and the Committee for Public Counsel Services.

10 SECTION 2. Paragraphs 1 and 2 of Section 72B of chapter 119, as so appearing, are
11 hereby amended by striking out said paragraphs and inserting in place thereof the following
12 paragraphs:-

13 Notwithstanding the provisions of section two of chapter two hundred and sixty-five, if a
14 person is found guilty of murder in the first degree committed on or after his fourteenth birthday
15 and before his eighteenth birthday, the superior court shall commit the person to imprisonment in
16 a state prison for life. Said person shall be eligible for parole under section one hundred and
17 thirty-three A of chapter one hundred and twenty-seven when such person has served fifteen
18 years of said confinement. Thereafter said person shall be subject to the provisions of law
19 governing the granting of parole permits by the parole board.

20 Notwithstanding the provisions of section two of chapter two hundred and sixty-five, if a
21 person is found guilty of murder in the second degree committed on or after his fourteenth
22 birthday and before his eighteenth birthday, the superior court shall commit the person to
23 imprisonment in a state prison for life. Said person shall be eligible for parole under section one
24 hundred and thirty-three A of chapter one hundred and twenty-seven when such person has
25 served fifteen years of said confinement. Thereafter said person shall be subject to the provisions
26 of law governing the granting of parole permits by the parole board.

27 SECTION 3. Section 72B of said chapter 119, as so appearing, is hereby further
28 amended by striking out paragraph 4 and inserting in place thereof the following paragraph:-

29 A person who is found guilty of murder in the first or second degree and is sentenced to a
30 state prison but who has not yet reached his eighteenth birthday shall be held in a youthful
31 offender unit separate from the general population of adult prisoners; provided, however, that
32 such person shall be classified at a facility other than the reception and diagnostic center at the
33 Massachusetts Correctional Institution - Concord, and shall not be held at the Massachusetts
34 Correctional Institution - Cedar Junction, prior to his eighteenth birthday.

35 SECTION 4. Paragraph one of section 133A of chapter 127, as so appearing, is hereby
36 amended by striking out said paragraph and inserting in place thereof the following paragraph:-

37 Section 133A. Notwithstanding the provisions of section two of chapter two hundred and
38 sixty-five, every prisoner who is serving a sentence for life in a correctional institution of the
39 commonwealth, except prisoners confined to the hospital at the Massachusetts Correctional
40 Institution - Bridgewater, and except prisoners serving a life sentence for murder in the first
41 degree who committed such offense on or after their eighteenth birthday, shall be eligible for
42 parole, and the parole board shall, within sixty days before the expiration of fifteen years of such
43 sentence, conduct a public hearing before the full membership unless a member of the board is
44 determined to be unavailable as provided in this section. For the purposes of this section, the
45 term unavailable shall mean that a board member has a conflict of interest to the extent that he
46 cannot render a fair and impartial decision or that the appearance of a board member would be
47 unduly burdensome because of illness, incapacitation, or other circumstance. Whether a member
48 is unavailable for the purposes of this section shall be determined by the chair. Board members
49 shall appear unless said chair determines them to be unavailable. Under no circumstances shall a
50 parole hearing proceed pursuant to this section unless a majority of the board is present at the
51 public hearing. Unless a board member is unavailable due to a conflict of interest, any board
52 member who was not present at the public hearing shall review the record of the public hearing
53 and shall vote in the matter.

54 SECTION 5. Section 133C of said chapter 127, as so appearing, is hereby amended by
55 inserting after the words, "except prisoners serving a life sentence for murder in the first degree"
56 and before the words, "and prisoners" the following:-

57 who committed such offense on or after their eighteenth birthday,

58 SECTION 6. Notwithstanding the provisions of section two of chapter two hundred and
59 sixty-five or section 133A of chapter 127 of the General Laws, or any other general or special
60 law to the contrary, a person serving a life sentence for murder in the first degree as of the
61 effective date of this act who committed such offense before his eighteenth birthday shall be
62 eligible for parole under section one hundred and thirty-three A of chapter one hundred and
63 twenty-seven when such person has served fifteen years of said confinement.

64 SECTION 7. This act shall take effect upon its passage.