

# HOUSE . . . . . No. 445

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Kay Khan*

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*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 protection of children.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/19/2011</i>
<i>Patricia D. Jehlen</i>		<i>1/31/2011</i>

# HOUSE . . . . . No. 445

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By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 445) of Kay Khan and Patricia D. Jehlen relative to the protection of children from assault and battery or sexual abuse. The Judiciary.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act relative to the protection 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. Section 13B of chapter 265 of the General Laws, as most recently amended  
2   by chapter 205 of the Acts of 2008, is hereby amended by striking said section in its entirety and  
3   inserting in place thereof the following section: -

4           Section 13B. Whoever commits an indecent assault and battery on a minor under the age  
5   of 14 shall be punished by imprisonment in the state prison for not more than 10 years, or by  
6   imprisonment in the house of correction for not more than 2½ years. A prosecution commenced  
7   under this section shall neither be continued without a finding nor placed on file.

8           In a prosecution under this section, a minor under the age of 14 years shall be deemed  
9   incapable of consenting to any conduct of the defendant for which such defendant is being  
10   prosecuted unless

11           (a) the defendant is no more than three years older than the minor; or

(b) the defendant is no more than two years older than the minor if the minor is under twelve years of age.

Notwithstanding the provisions of Chapter 119 section 54, or any other general or special law to the contrary, in a prosecution under this section in which the defendant is under seventeen years of age at the time of the offense, the commonwealth shall only proceed by complaint in juvenile court or in a juvenile session of a district court.

SECTION 2. Section 23 of said chapter 265, as so appearing, is amended by striking out said section in its entirety and inserting in place thereof the following section:-

Section 23. Whoever has sexual intercourse or unnatural sexual intercourse with a minor under 16 years of age and:

(a) the defendant is more than four years older than the minor, or

(b) the minor is under fourteen years of age and the defendant is more than three years older than the minor; or

(c) the minor is under twelve years of age and the defendant is more than two years older than the minor,

shall be punished by imprisonment in the state prison for life or for any term of years, or, except as otherwise provided, for any term in a jail or house of correction, provided, however, that a prosecution commenced under this section shall not be placed on file or continued without a finding.

Notwithstanding the provisions of Chapter 119 section 54, or any other general or special law to the contrary, in a prosecution under this section in which the defendant is under seventeen

33 years of age at the time of the offense, the commonwealth shall only proceed by complaint in  
34 juvenile court or in a juvenile session of a district court.

35 SECTION 3. Section 4 of chapter 272 of the General Laws as appearing in the 2008  
36 Official Edition is hereby repealed.

37 SECTION 4. This Act shall take effect upon its passage.