

**SENATE . . . . . No. 87**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Barbara A. L'Italien***

*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 to provide equal access to evaluations for children with disabilities.

PETITION OF:

| NAME:                          | DISTRICT/ADDRESS:                                  |                  |
|--------------------------------|--|------------------|
| <i>Barbara A. L'Italien</i>    | <i>Second Essex and Middlesex</i>                  |                  |
| <i>Marjorie C. Decker</i>      | <i>25th Middlesex</i>                              |                  |
| <i>Michael O. Moore</i>        | <i>Second Worcester</i>                            |                  |
| <i>Sal N. DiDomenico</i>       | <i>Middlesex and Suffolk</i>                       |                  |
| <i>William N. Brownsberger</i> | <i>Second Suffolk and Middlesex</i>                |                  |
| <i>Carolyn C. Dykema</i>       | <i>8th Middlesex</i>                               |                  |
| <i>Michael J. Barrett</i>      | <i>Third Middlesex</i>                             |                  |
| <i>Jason M. Lewis</i>          | <i>Fifth Middlesex</i>                             |                  |
| <i>Anne M. Gobi</i>            | <i>Worcester, Hampden, Hampshire and Middlesex</i> |                  |
| <i>James B. Eldridge</i>       | <i>Middlesex and Worcester</i>                     |                  |
| <i>John F. Keenan</i>          | <i>Norfolk and Plymouth</i>                        |                  |
| <i>Brian A. Joyce</i>          | <i>Norfolk, Bristol and Plymouth</i>               |                  |
| <i>Joan B. Lovely</i>          | <i>Second Essex</i>                                |                  |
| <i>Danielle W. Gregoire</i>    | <i>4th Middlesex</i>                               |                  |
| <i>Marcos A. Devers</i>        | <i>16th Essex</i>                                  |                  |
| <i>Walter F. Timilty</i>       | <i>7th Norfolk</i>                                 |                  |
| <i>Thomas M. McGee</i>         | <i>Third Essex</i>                                 | <i>4/24/2015</i> |



**SENATE . . . . . No. 87**

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By Mrs. L'Italien, a petition (accompanied by bill, Senate, No. 87) of Barbara L'Italien, Marjorie C. Decker, Michael O. Moore, Sal N. DiDomenico and other members of the General Court for legislation to provide equal access to evaluations for children with disabilities. Children, Families and Persons with Disabilities.

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**The Commonwealth of Massachusetts**

**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**

An Act to provide equal access to evaluations for children with disabilities.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           Whereas parents’ full participation in the planning and development of special education  
2 services for their child is required under state and federal special education law;

3           Whereas appropriate educational evaluations are vital to a child’s special education  
4 development, and independent educational evaluations provide the only way for parents to  
5 participate effectively in special education planning in the unusual situation where they disagree  
6 with a school district evaluation;

7           Whereas parents have the right to an independent educational evaluation under state and  
8 federal special education law, but this right is meaningless if the rates established by the state are  
9 so low that evaluators will not perform these evaluations;

10           Therefore, it is imperative to establish a reasonable rate structure that is fair to school  
11 districts and, at the same time, allows low- and moderate-income parents access to independent  
12 education evaluations.

13           SECTION 1. Section 13C of chapter 118E of the General Laws, as appearing in the  
14 2012 Official Edition, is hereby amended by inserting after the first paragraph the following new  
15 paragraph:-

16           Notwithstanding any general or special law to the contrary, the secretary of health and  
17 human services shall establish rates specific to independent evaluations in accordance with the  
18 rate standards established in this paragraph. To ensure that parents can participate fully and  
19 effectively with school personnel in the consideration and development of appropriate  
20 educational programs for their child, rates shall be at levels that provide parents with a choice of  
21 evaluators who can complete the evaluation in a timely manner and who have sufficient  
22 experience and expertise to determine the nature and extent of the child's disability and to  
23 determine the nature and extent of the child's educational needs and how they should be met.  
24 Rates shall allow payment of any or all of the following, as needed by the evaluator to make such  
25 determinations: formal and informal testing; interviews of child and parents; review of the  
26 child's educational records and schoolwork; obtaining and reviewing relevant information from  
27 the child's teachers, therapists and persons who have evaluated the child; observation of the child  
28 at school, at home, at a workplace and in the community; observation of any program proposed  
29 for the child, including both academic and non-academic components; testing and other formal  
30 and informal assessments sufficient to conduct transition evaluations pursuant to section 2 of  
31 chapter 71B and 20 U.S.C. 1400 et seq.; a comprehensive written report; attendance at the  
32 required team meeting that considers the evaluation and report; and travel time and expenses. A

33 parent may file a request with the bureau of special education appeals and a hearing officer may  
34 order a higher rate for a particular independent evaluation if necessary to meet the rate standards  
35 in this paragraph. At least every three years, the secretary of health and human services shall  
36 review the rates for independent evaluations and adjust the rates as necessary in order to comply  
37 with this section.

38 SECTION 2. The tenth paragraph of section 3 of chapter 71B of the General Laws, as  
39 appearing in the 2012 Official Edition, is hereby amended by deleting the words “educational  
40 assessments” and inserting in place thereof the following words:- independent evaluations.

41 SECTION 3. The tenth paragraph of section 3 of chapter 71B of the General Laws, as  
42 appearing in the 2012 Official Edition, is hereby further amended by inserting immediately after  
43 the words “conducted or performed by” the following word:- licensed.

44 SECTION 4. Section 3 of chapter 71B of the General Laws, as appearing in the 2012  
45 Official Edition, is hereby amended by inserting after the twelfth paragraph the following new  
46 paragraph:-

47 Parents, guardians, or persons with custody who either have requested a hearing before  
48 the bureau of special education appeals or are parties to a proceeding initiated by a school  
49 committee at the bureau shall be entitled to reasonable expert fees and costs as a prevailing party.