

HOUSE No. 2053

The Commonwealth of Massachusetts

PRESENTED BY:

James J. O'Day and Paul Brodeur

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 healthy youth.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
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| <i>James J. O'Day</i> | <i>14th Worcester</i> | <i>1/20/2017</i> |
| <i>Paul Brodeur</i> | <i>32nd Middlesex</i> | <i>1/20/2017</i> |
| <i>Solomon Goldstein-Rose</i> | <i>3rd Hampshire</i> | |
| <i>Jack Lewis</i> | <i>7th Middlesex</i> | |
| <i>Cory Atkins</i> | <i>14th Middlesex</i> | <i>1/25/2017</i> |
| <i>Ruth B. Balsler</i> | <i>12th Middlesex</i> | <i>1/26/2017</i> |
| <i>Christine P. Barber</i> | <i>34th Middlesex</i> | <i>1/28/2017</i> |
| <i>Jennifer E. Benson</i> | <i>37th Middlesex</i> | <i>1/24/2017</i> |
| <i>Daniel Cahill</i> | <i>10th Essex</i> | <i>2/1/2017</i> |
| <i>James M. Cantwell</i> | <i>4th Plymouth</i> | <i>1/30/2017</i> |
| <i>Gailanne M. Cariddi</i> | <i>1st Berkshire</i> | <i>2/1/2017</i> |
| <i>Evandro C. Carvalho</i> | <i>5th Suffolk</i> | <i>2/1/2017</i> |
| <i>Gerard Cassidy</i> | <i>9th Plymouth</i> | <i>2/2/2017</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>1/31/2017</i> |
| <i>Edward F. Coppinger</i> | <i>10th Suffolk</i> | <i>2/2/2017</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i> | <i>1/26/2017</i> |
| <i>Daniel Cullinane</i> | <i>12th Suffolk</i> | <i>2/2/2017</i> |
| <i>Josh S. Cutler</i> | <i>6th Plymouth</i> | <i>2/1/2017</i> |

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| <i>Michael S. Day</i> | <i>31st Middlesex</i> | <i>1/26/2017</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> | <i>2/2/2017</i> |
| <i>Diana DiZoglio</i> | <i>14th Essex</i> | <i>2/1/2017</i> |
| <i>Daniel M. Donahue</i> | <i>16th Worcester</i> | <i>1/26/2017</i> |
| <i>William Driscoll</i> | <i>7th Norfolk</i> | <i>2/1/2017</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | <i>1/31/2017</i> |
| <i>Carolyn C. Dykema</i> | <i>8th Middlesex</i> | <i>2/2/2017</i> |
| <i>Lori A. Ehrlich</i> | <i>8th Essex</i> | <i>1/26/2017</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>1/26/2017</i> |
| <i>Tricia Farley-Bouvier</i> | <i>3rd Berkshire</i> | <i>1/30/2017</i> |
| <i>Dylan Fernandes</i> | <i>Barnstable, Dukes and Nantucket</i> | <i>1/31/2017</i> |
| <i>Ann-Margaret Ferrante</i> | <i>5th Essex</i> | <i>1/25/2017</i> |
| <i>Linda Dorcena Forry</i> | <i>First Suffolk</i> | <i>2/3/2017</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>1/31/2017</i> |
| <i>Denise C. Garlick</i> | <i>13th Norfolk</i> | <i>2/2/2017</i> |
| <i>Carmine L. Gentile</i> | <i>13th Middlesex</i> | <i>1/27/2017</i> |
| <i>Carlos González</i> | <i>10th Hampden</i> | <i>2/3/2017</i> |
| <i>Kenneth I. Gordon</i> | <i>21st Middlesex</i> | <i>1/25/2017</i> |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> | <i>1/25/2017</i> |
| <i>Stephan Hay</i> | <i>3rd Worcester</i> | <i>2/2/2017</i> |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> | <i>1/27/2017</i> |
| <i>Paul R. Heroux</i> | <i>2nd Bristol</i> | <i>2/2/2017</i> |
| <i>Natalie Higgins</i> | <i>4th Worcester</i> | <i>1/31/2017</i> |
| <i>Kate Hogan</i> | <i>3rd Middlesex</i> | <i>2/1/2017</i> |
| <i>Kevin G. Honan</i> | <i>17th Suffolk</i> | <i>1/26/2017</i> |
| <i>Daniel J. Hunt</i> | <i>13th Suffolk</i> | <i>2/2/2017</i> |
| <i>Louis L. Kafka</i> | <i>8th Norfolk</i> | <i>1/30/2017</i> |
| <i>Jay R. Kaufman</i> | <i>15th Middlesex</i> | <i>1/24/2017</i> |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> | <i>2/2/2017</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>1/27/2017</i> |
| <i>Peter V. Kocot</i> | <i>1st Hampshire</i> | <i>2/1/2017</i> |
| <i>Stephen Kulik</i> | <i>1st Franklin</i> | <i>2/2/2017</i> |
| <i>John J. Lawn, Jr.</i> | <i>10th Middlesex</i> | <i>1/26/2017</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>1/30/2017</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> | <i>1/30/2017</i> |
| <i>Barbara A. L'Italien</i> | <i>Second Essex and Middlesex</i> | <i>1/25/2017</i> |
| <i>Jay D. Livingstone</i> | <i>8th Suffolk</i> | <i>2/1/2017</i> |
| <i>Joan B. Lovely</i> | <i>Second Essex</i> | <i>2/3/2017</i> |
| <i>Adrian Madaro</i> | <i>1st Suffolk</i> | <i>2/2/2017</i> |

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| <i>John J. Mahoney</i> | <i>13th Worcester</i> | <i>2/1/2017</i> |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | <i>2/1/2017</i> |
| <i>Paul W. Mark</i> | <i>2nd Berkshire</i> | <i>2/3/2017</i> |
| <i>Juana B. Matias</i> | <i>16th Essex</i> | <i>2/2/2017</i> |
| <i>Paul McMurtry</i> | <i>11th Norfolk</i> | <i>2/1/2017</i> |
| <i>Joan Meschino</i> | <i>3rd Plymouth</i> | <i>2/3/2017</i> |
| <i>Aaron Michlewitz</i> | <i>3rd Suffolk</i> | <i>2/2/2017</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>2/3/2017</i> |
| <i>Sarah K. Peake</i> | <i>4th Barnstable</i> | <i>1/24/2017</i> |
| <i>Alice Hanlon Peisch</i> | <i>14th Norfolk</i> | <i>2/3/2017</i> |
| <i>Smitty Pignatelli</i> | <i>4th Berkshire</i> | <i>1/26/2017</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> | <i>1/24/2017</i> |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> | <i>2/2/2017</i> |
| <i>Byron Rushing</i> | <i>9th Suffolk</i> | <i>2/3/2017</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> | <i>2/2/2017</i> |
| <i>Jeffrey Sánchez</i> | <i>15th Suffolk</i> | <i>2/3/2017</i> |
| <i>Paul A. Schmid, III</i> | <i>8th Bristol</i> | <i>2/2/2017</i> |
| <i>John W. Scibak</i> | <i>2nd Hampshire</i> | <i>1/25/2017</i> |
| <i>Frank I. Smizik</i> | <i>15th Norfolk</i> | <i>1/26/2017</i> |
| <i>Theodore C. Speliotis</i> | <i>13th Essex</i> | <i>2/1/2017</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>2/3/2017</i> |
| <i>José F. Tosado</i> | <i>9th Hampden</i> | <i>1/31/2017</i> |
| <i>Paul Tucker</i> | <i>7th Essex</i> | <i>1/30/2017</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> | <i>1/30/2017</i> |
| <i>Aaron Vega</i> | <i>5th Hampden</i> | <i>2/1/2017</i> |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> | <i>1/25/2017</i> |
| <i>Bud Williams</i> | <i>11th Hampden</i> | <i>2/2/2017</i> |
| <i>Jonathan D. Zlotnik</i> | <i>2nd Worcester</i> | <i>2/2/2017</i> |

HOUSE No. 2053

By Messrs. O'Day of West Boylston and Brodeur of Melrose, a petition (accompanied by bill, House, No. 2053) of James J. O'Day, Paul Brodeur and others relative to sexual education programs in certain public schools. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to healthy youth.

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. Chapter 71 of the General Laws is hereby amended by striking out section
2 32A and inserting in place thereof the following sections:-

3 Section 32A. Every city, town, regional school district, vocational school district or
4 charter school implementing or maintaining a curriculum that primarily involves human sexual
5 education or human sexuality issues shall adopt a written policy ensuring parental or legal
6 guardian notification of the comprehensive sexual health education provided by the school, the
7 right of the parent or legal guardian to withdraw a student from all or part of the instruction, and
8 the notification process to the school for withdrawal. The policy shall also include a process for
9 parents and legal guardians to inspect the program instruction materials prior to the start of the
10 course, if the parent or legal guardian requests to review the materials.

11 Such notification must be provided in all languages that meet the federal definition for
12 Limited English Proficiency. The policy shall be distributed annually by September 1 to parents

13 or guardians of a student in a grade that includes a comprehensive sexual health education
14 curriculum during the upcoming academic year. The policy shall also be distributed in the same
15 manner as any student handbook that is distributed to students. If student handbooks are not
16 distributed in a certain grade, the policy shall be distributed in the same manner as other notices
17 provided to parents and guardians at the start of the school year. Upon adoption or amendment,
18 a copy of each district’s policy shall be sent to the department of elementary and secondary
19 education after adoption.

20 If a parent or guardian withdraws a student from all or part of sexual health instruction,
21 the student shall not be subject to disciplinary action, academic penalty or any other sanction.
22 An alternative educational activity shall be made available to students who have been withdrawn
23 from instruction.

24 Section 32B. (a) For the purposes of this section, the following terms shall, unless the
25 context clearly requires otherwise, have the following meanings:

26 “Age-appropriate”, topics, messages, and teaching methods suitable to particular ages or
27 age groups of children and adolescents, based on cognitive, emotional, social, and behavioral
28 capacity typical for that age or age group.

29 “Consent”, affirmative, conscious, and voluntary agreement to engage in interpersonal,
30 physical, or sexual activity.

31 “Department”, the department of elementary and secondary education.

32 “Gender Identity”, a person's gender-related identity, appearance or behavior, whether or
33 not that gender-related identity, appearance or behavior is different from that traditionally
34 associated with the person's physiology or assigned sex at birth.

35 “Medically accurate”, verified or supported by the weight of research conducted in
36 compliance with accepted scientific methods and published in peer-reviewed journals, where
37 applicable, or otherwise recognized as accurate and objective by leading professional public
38 health or medical, psychological, and psychiatric organizations, government agencies and
39 scientific advisory groups with relevant expertise in the field.

40 “Sexual Orientation”, homosexuality, heterosexuality, or bisexuality; for purposes of
41 curriculum and instruction, “sexual orientation” includes an individual’s attraction, including
42 physical or emotional, to the same and/or different genders.

43 (b) Each city, town, regional school district, vocational school district, or charter school
44 that offers sexual health education shall provide medically accurate, age-appropriate,
45 comprehensive sexual health education. Sexual health education shall be appropriate for
46 students regardless of gender, race, disability status, sexual orientation, or gender identity and
47 shall include, but not be limited to, teaching the following topics:

48 (i) The physical, social, and emotional changes of human development;

49 (ii) Human anatomy, reproduction, and sexual development;

50 (iii) The benefits of abstinence and delaying sexual activity, in conjunction with the
51 effective use of contraceptives and barrier methods, such as condoms, medication, and birth

52 control, to prevent unintended pregnancy and sexually transmitted infections, including
53 HIV/AIDS, and the options for pregnancy, including parenting, adoption, and abortion;

54 (iv) Ways to effectively discuss safe sexual activity;

55 (v) Healthy relationships, including friendships and relationships within families, and
56 communication skills to form healthy, respectful relationships free of violence, coercion, and
57 intimidation and to make healthy decisions about relationships and sexuality; this includes:

58 (1) Developing effective communication, negotiation, and refusal skills, including the
59 skills to recognize and report inappropriate or abusive sexual advances;

60 (2) Understanding bodily autonomy, setting and respecting personal boundaries,
61 practicing personal safety, and consent;

62 (3) Critical thinking, problem solving, self-sufficiency, and decision making;

63 (4) Discussion of healthy relationships, including affirmative representation of
64 lesbian, gay, bisexual, and transgender individuals, relationships, and families; and

65 (5) Encouraging youth to communicate with their parents or guardians, as well as
66 faith, health, and social service professionals, and other trusted adults about sexuality and
67 intimate relationships; and

68 (vi) Age-appropriate information about gender identity and sexual orientation for all
69 students, including:

70 (1) Affirmative recognition that people have different sexual orientations, gender
71 identities, and gender expressions;

72 (2) Information about community resources that can provide additional support for
73 lesbian, gay, bisexual, and transgender students.

74 (c) Any city, town, regional school district, vocational school district or charter school
75 that utilizes curricula consistent with the Massachusetts curriculum framework for
76 comprehensive health shall be in compliance with this section.

77 (d) The department shall promulgate rules to implement, administer, and ensure
78 compliance with the provisions of this section.

79 (e) The department shall determine minimum education and training qualifications for
80 sex education instructors.

81 (f) Pursuant to its authority under section 1E of chapter 69 of the general laws, the board
82 of elementary and secondary education shall direct the commissioner to update the health
83 curriculum framework, including provisions relative to sexual health education consistent with
84 this section, upon the effective date of this act and no less than once every 10 years thereafter.

85 32C. (a) The department may promulgate regulations setting forth a complaint procedure
86 to enforce this Act, subject to subsection (b). A final determination of a complaint by the
87 department shall be appealable to the Massachusetts Superior Court.

88 (b) Any parent or guardian with a child enrolled in a city, town, regional school district,
89 vocational school district, or charter school, or any student having legal capacity enrolled in such
90 a school or school district, who believes the school district is not complying with the
91 requirements of Section 32B may enforce the provisions of Section 32B of this chapter in
92 superior court.

93 SECTION 2. Section 1I of Chapter 69 of the General Laws, as so appearing, is hereby
94 amended by inserting after the last paragraph the following:- Beginning the first academic year
95 following the effective date of this act, each city, town, regional school district, vocational school
96 district, or charter school shall file an annual report with the department regarding sexual health
97 education in the district by a date and in a format to be determined by the board. Said report
98 shall include, but not be limited to, the following data for each city, town, regional school
99 district, vocational school district, or charter school, by grade level: (1) a description of any
100 sexual health education curricula offered; (2) the approximate number of hours spent on sexual
101 health education; (3) the number of students receiving sexual health education; and (4) the
102 number of students who withdrew from sexual health education, pursuant to section 32A.

103 SECTION 3. Section 1 of chapter 71 of the general laws, as so appearing, is hereby
104 amended by inserting after the word “resuscitation”, in line 23, the following words:- ; provided,
105 however, that for any school located in a city or town with an adolescent or young adult sexually
106 transmitted infection (STI) incidence rate higher than the state average, and any regional school
107 district where one of the constituent cities or towns has an adolescent or young adult STI
108 incidence rate higher than the state average, instruction in health education shall additionally
109 include comprehensive sexual health education consistent with the requirements laid out in
110 section 32B of chapter 71 of the general laws. The department of elementary and secondary
111 education shall determine for each academic year which school districts and individual schools
112 shall be subject to such additional sexual health education instruction requirements based on the
113 STD, HIV/AIDS and Viral Hepatitis Surveillance Report published annually by the department
114 of public health.

115 SECTION 4. Sections 1 and 2 of this act shall take effect for the academic year
116 immediately following its passage.

117 SECTION 5. Section 3 of this act shall take effect July 1, 2020.