

HOUSE No. 3736

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 7, 2017.

The committee on Ways and Means, to whom was referred the Bill for language opportunity for our kids (House, No. 3705), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3736).

For the committee,

BRIAN S. DEMPSEY

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

An Act relative to language opportunity for our kids.

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. The nineteenth paragraph of section 1I of chapter 69 of the General Laws,
2 as appearing in the 2016 Official Edition, is hereby amended by adding the following 4 clauses:-

3 (k) a description of the school district's plan to evaluate the effectiveness of its English
4 language learner programs relative to: (i) helping students attain English language proficiency
5 and meeting academic standards; (ii) measuring student readiness to join mainstream classrooms;
6 (iii) evaluations and measures provided, in addition to department requirements; and (iv) a
7 description of the steps that the school district plans to take to address any identified deficiency;

8 (l) a record of: (i) instances in which a parent or guardian requested a waiver to withdraw
9 a student from or refused a student's participation in an English learner program; and (ii)
10 meetings held with parents regarding a student who is not making satisfactory progress toward
11 participating and learning in an integrated classroom;

12 (m) a description of training provided by the district to staff who work with culturally and
13 linguistically diverse student populations; and

14 (n) documentation detailing the participation of English language learners in the district's
15 regular and advanced educational programs and extracurricular activities.

16 SECTION 2. The fifth paragraph of section 59C of chapter 71, as so appearing, is hereby
17 amended by inserting after the first sentence the following sentence:-

18 In school districts in which English language learners comprise more than 5 per cent of
19 the district's student population, the plan to improve student performance shall include a
20 description of the educational program models and approaches offered by the school district to
21 ensure the progress of English language learners in attaining English speaking, reading, writing
22 and oral comprehension skills and in meeting academic standards under section 1D of said
23 chapter 69 and curriculum frameworks under section 1E of said chapter 69.

24 SECTION 3. Section 2 of chapter 71A, as so appearing, is hereby amended by inserting
25 after subsection (a), the following subsection:-

26 (a ½) "Department", the department of elementary and secondary education.

27 SECTION 4. Section 3 of said chapter 71A is hereby amended by striking out, in line 2,
28 the words, "Local school committees" and inserting in place thereof, the following words"-
29 School districts.

30 SECTION 5. Said section 3 of said chapter 71A is hereby further amended by striking
31 out, in lines 3 and 4, the words "Department of Education" and inserting in place thereof the
32 following word:- department.

33 SECTION 6. Said section 3 of said chapter 71A, as so appearing, is hereby further
34 amended by adding the following sentence:- School districts shall track the academic

35 performance of students who have exited an English learner program to assess the academic
36 achievement and effectiveness of English language classroom programming.

37 SECTION 7. Section 4 of said chapter 71A, as so appearing, is hereby amended by
38 striking out, in line 6, the word “during” and inserting in place thereof the following words:- , or
39 an alternative instructional program approved by the department , during.

40 SECTION 8. Section 5 of said chapter 71A, as so appearing, is hereby amended by
41 inserting after the word “visit,” in line 6, the following words:- or provide a written request to.

42 SECTION 9. Subsection (a) of said section 5 of said chapter 71A, as so appearing, is
43 hereby amended by striking out the third sentence and inserting in place thereof the following 2
44 sentences:- A school, under advisement of a teacher or guidance counselor, may request a waiver
45 for an individual child in writing, with notice of the waiver request provided to the child’s
46 parents, in a form prescribed by the department. If a parental or school-requested waiver has
47 been granted , the affected child may be transferred to an alternative instructional program,
48 which for the purposes of this chapter, shall include but shall not be limited to, classes teaching
49 English and other subjects through bilingual education techniques or other generally-recognized
50 educational methodologies.

51 SECTION 10. Said section 5 of said chapter 71A, as so appearing, is hereby further
52 amended by inserting after the word “waiver,” in line 18, the following words:- or school-
53 requested exception waiver.

54 SECTION 11. Said section 5 of said chapter 71A, as so appearing, is hereby further
55 amended by striking out, in line 33, the word “and” and inserting in place thereof the following

56 words:- or has a demonstrated need based on the child’s academic record from the previous year,
57 and.

58 SECTION 12. Said section 5 of said chapter 71A, as so appearing, is hereby further
59 amended by inserting after the word “provided,” in line 41, the following words:- by the parent
60 or school.

61 SECTION 13. Said section 5 of said chapter 71A, as so appearing, is hereby further
62 amended by striking out, in line 44, the word “waivers” and inserting in place thereof the
63 following words:- (c) Waivers.

64 SECTION 14. Said section 5 of said chapter 71A, as so appearing, is hereby further
65 amended by inserting after the word “passed,” in line 46, the following words:- , unless the child
66 has previously attended the school.

67 SECTION 15. Said section 5 of said chapter 71A, as so appearing, is hereby further
68 amended by striking out, in line 47, the words “such an individual” and inserting in place
69 thereof, the word:- a.

70 SECTION 16. Said section 5 of said chapter 71A, as so appearing, is hereby further
71 amended by striking out, in lines 51 and 52, the words “special individual needs” and inserting in
72 place thereof, the word:- circumstances.

73 SECTION 17. Section 6 of said chapter 71A, as so appearing, is hereby amended by
74 striking out, in line 19, the words “exception waivers under Section 5(b)(3)” and inserting in
75 place thereof, the following words:- waivers under section 5.

76 SECTION 18. Said chapter 71A is hereby further amended by inserting after section 5
77 the following section:-

78 Section 5A. School districts shall annually inform the parents or legal guardians of
79 English learners of their right to apply for a waiver and choose an alternative instructional
80 program among those offered by the school district, or to withdraw a child from an alternative
81 instructional program. Notice shall be sent by mail not later than 10 days after the enrollment of
82 the child in the school district. The notice shall, to the extent feasible: (i) be in a language that is
83 understandable to the parents or legal guardians; (ii) contain a clear description of the purpose,
84 method and content of the available programs; (iii) inform the parent or legal guardian of the
85 right to visit an English learner program in the school district; and (iv) inform the parent or legal
86 guardian of available conferences or meetings to learn about the English learner programs.

87 If a school district recommends placing an English learner in an English learner program,
88 the parent or legal guardian of the child shall have the right, at the time of the original
89 notification under this section, or at the close of any marking period, to withdraw the child from
90 a program by sending written notice of the decision by mail or electronic communication to the
91 school authority designated by the school district in which the child is enrolled.

92 SECTION 19. Said chapter 71A, as so appearing, is hereby further amended by inserting
93 after section 6 the following section:-

94 Section 6A. A school district operating a language acquisition program for English
95 learners serving more than 100 English learners or in which English learners are more than 5 per
96 cent of the district's student population, whichever is less, shall establish an English learner
97 parent advisory council. The council shall be composed of volunteer parents or legal guardians

98 of students who are or have been identified as English learners and to the extent feasible, the
99 members of the council shall represent the predominant native language or languages spoken by
100 the students of the district. The duties of the English learner parent advisory council shall
101 include, but not be limited to: (i) advising the school district, school committee or board of
102 trustees on matters that pertain to English learners; (ii) meeting regularly with school officials to
103 participate in the planning and development of programs designed to improve educational
104 opportunities for English learners; and (iii) participating in the review of school or district
105 improvement plans established under section 59C of chapter 71 as the plans relate to English
106 learners. An English learner parent advisory council may meet at least once annually with its
107 school council established pursuant to said section 59C. The English learner parent advisory
108 council shall establish by-laws regarding officers and operational procedures. In the course of its
109 duties under this section, the English learner parent advisory council shall receive assistance
110 from the director of language acquisition programs for the school district or other appropriate
111 school personnel as designated by the superintendent.

112 SECTION 20. The first paragraph of section 7A of said chapter 71A, as so appearing, is
113 hereby amended by striking out the second sentence and inserting in place thereof the following
114 2 sentences:- The evaluation shall include, but shall not be limited to: (i) a review of individual
115 student records of all English learners; (ii) a review of the number of waivers issued by the
116 school and when applicable, the type of alternative instructional program provided; (iii) a review
117 of the programs and services provided to English learners; (iv) a review of the dropout,
118 graduation, discipline and special education incidence rates of English learners formerly enrolled
119 in the district within the prior 3 years; (v) a description of the processes by which school-based
120 teams consisting of educators, administrators and support staff, monitor the progress of English

121 learners and former English learners; (vi) a review of the amount, frequency and effectiveness of
122 English as a second language instruction; and (vii) a review of the administration and
123 coordination of English learner education programs. The advisory council for bilingual education
124 established pursuant to section 1G of chapter 15 shall annually review the results of the
125 department's monitoring of English learner programs in school districts.

126 SECTION 21. Section 8 of said chapter 71A, as so appearing, is hereby amended, by
127 striking out, in line 17, the words "Department of Education" and inserting in place thereof the
128 following word:- department.

129 SECTION 22. Not later than July 1, 2018, the department of elementary and secondary
130 education shall establish guidelines for school districts to assist in supporting English learners, as
131 defined in section 2 of chapter 71A of the General Laws, who do not meet anticipated
132 benchmarks in attaining English proficiency. The guidelines shall include, but not be limited to:
133 (i) ways for school districts to provide individualized goals and plans for English learners who
134 are not meeting anticipated benchmarks in attaining English proficiency; (ii) best practices for
135 ensuring that English learners meet individualized goals and plans to meet benchmarks in
136 attaining English proficiency; and (iii) ways for school districts to share best practices among
137 each other in assisting English learners in attaining English proficiency.

138 SECTION 23. Not later than July 1, 2018 the department of elementary and secondary
139 education shall establish guidelines relative to English learner parent advisory councils created
140 pursuant to section 6A of chapter 71A of the General Laws. The guidelines shall include, but not
141 be limited to the process for parents or legal guardians to be notified of English learner parent

142 advisory councils and the process for the appointment of volunteer parents or legal guardians to
143 the council.

144 SECTION 24. Notwithstanding any general or special law to the contrary, school districts
145 shall provide a copy of department of elementary and secondary education guidelines relative to
146 supporting English learners, as defined in section 2 of chapter 71A of the General Laws, who do
147 not meet anticipated benchmarks in attaining English proficiency to the parent or guardian of
148 each English learner, in the parent's or guardian's primary language, at the beginning of each
149 school year or upon enrollment of the child in an English learner program if the enrollment is not
150 concurrent with the beginning of the school year.

151 SECTION 25. There shall be a working group on English Language Learners to review
152 the current collection and dissemination of school district and statewide data relative to school-
153 age English language learners.

154 The working group shall consist of 17 members: the house and senate chairs of the joint
155 committee on education, or their designees, who shall serve as the co-chairs; 1 member of the
156 senate, appointed by the senate president; 1 member of the house of representatives, appointed
157 by the speaker; 1 member of the senate, appointed by the minority leader; 1 member of the house
158 of representatives, appointed by the minority leader; the commissioner of the department of
159 elementary and secondary education, or a designee; the executive director of the Massachusetts
160 Association of School Superintendents, Inc. or a designee; the executive director of the
161 Massachusetts Association of School Committees or a designee; the executive director of the
162 Massachusetts Elementary School Principals' Association or a designee; the executive director
163 of the Massachusetts Secondary School Administrators' Association, or a designee; the executive

164 director of the Massachusetts Administrators for Special Education Administrators, or a
165 designee; 1 representative of the Massachusetts Association of Teachers of Speakers of Other
166 Languages; 2 superintendents, appointed by the Massachusetts Association of School
167 Superintendents, Inc., from school districts serving high concentrations of English language
168 learners; and, 2 district-level English language learner directors, appointed by the Massachusetts
169 Association of School Superintendents.

170 The working group shall: (i) study, report and review on all existing school and district
171 reporting requirements relative to English language learners; (ii) consider how current data is
172 collected and used to evaluate English language learner programming and its effectiveness; and,
173 (iii) review the waiver, parental notification process, effectiveness and transparency of district
174 and state reporting relative to English language learners; (iv) consider improvements to data
175 collection and dissemination relative to English language learners.

176 The working group may meet with state agencies, parents, guardians, teachers, school
177 administrators, and any person or persons the chairs deem necessary for the purpose of filing its
178 report.

179 The working group shall file a report containing its finding and any recommendations
180 with the joint committee on education, and the clerks of the house and the senate not later than
181 February 1, 2018.

182 SECTION 26. The department of elementary and secondary education shall promulgate
183 regulations to implement this act no later than March 1, 2018.