

HOUSE No. 3740

House bill No. 3736, as changed by the committee on Bills in the Third Reading, and as amended and passed to be engrossed by the House. June 7, 2017.

The Commonwealth of Massachusetts

**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 1A. Said section 1I of said chapter 69, as so appearing, is hereby further
17 amended by striking out, in the twenty-first paragraph, the last sentence and inserting in place
18 thereof, the following sentence:- The commissioner shall submit annually a report to the joint
19 committee on education on such data on a statewide and school district basis, including, but not
20 limited to, by language group and type of English language learners program and an analysis of
21 the status of English language learners progress in the commonwealth, referencing the data
22 collected in clauses (a) through (n), inclusive, of this section.

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

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

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

33 (a½) “Department”, the department of elementary and secondary education.

34 SECTION 4. Section 3 of said chapter 71A is hereby amended by striking out, in line 2,
35 the words “Local school committees” and inserting in place thereof the following words:-School
36 districts.

37 SECTION 5. Said section 3 of said chapter 71A is hereby further amended by striking
38 out, in lines 3 and 4, the words “Department of Education” and inserting in place thereof the
39 following word:- department.

40 SECTION 6. Said section 3 of said chapter 71A, as so appearing, is hereby further
41 amended by adding the following sentence:- School districts shall track the academic
42 performance of students who have exited an English learner program to assess the academic
43 achievement and effectiveness of English language classroom programming.

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

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

49 SECTION 9. Subsection (a) of said section 5 of said chapter 71A, as so appearing, is
50 hereby amended by striking out the third sentence and inserting in place thereof the following 2
51 sentences:- A school, under advisement of a teacher or guidance counselor, may request a waiver
52 for an individual child in writing, with notice of the waiver request provided to the child’s
53 parents, in a form prescribed by the department. If a parental or school-requested waiver has

54 been granted , the affected child may be transferred to an alternative instructional program,
55 which for the purposes of this chapter, shall include but shall not be limited to, classes teaching
56 English and other subjects through bilingual education techniques or other generally-recognized
57 educational methodologies.

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

61 SECTION 11. Said section 5 of said chapter 71A, as so appearing, is hereby further
62 amended by striking out, in line 33, the word “and” and inserting in place thereof the following
63 words:- or has a demonstrated need based on the child’s academic record from the previous year,
64 and.

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

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

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

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

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

80 SECTION 17. Said chapter 71A is hereby further amended by inserting after section 5
81 the following section:-

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

91 If a school district recommends placing an English learner in an English learner program,
92 the parent or legal guardian of the child shall have the right, at the time of the original
93 notification under this section, or at the close of any marking period, to withdraw the child from
94 a program by sending written notice of the decision by mail or electronic communication to the

95 school authority designated by the school district in which the child is enrolled, provided that
96 written confirmation of any such request is retained in the student's cumulative folder.

97 SECTION 18. Section 6 of said chapter 71A, as so appearing, is hereby amended by
98 striking out, in lines 18 and 19, the words "exception waivers under Section 5(b)(3)" and
99 inserting in place thereof the following words:- waivers under section 5.

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

102 Section 6A. A school district operating a language acquisition program for English
103 learners serving more than 100 English learners or in which English learners are more than 5 per
104 cent of the district's student population, whichever is less, shall establish an English learner
105 parent advisory council; provided, however, any school district may establish an advisory
106 council pursuant to this section. The council shall be composed of volunteer parents or legal
107 guardians of students who are or have been identified as English learners and to the extent
108 feasible, the members of the council shall represent the predominant native language or
109 languages spoken by the students of the district. The duties of the English learner parent advisory
110 council shall include, but not be limited to: (i) advising the school district, school committee or
111 board of trustees on matters that pertain to English learners; (ii) meeting regularly with school
112 officials to participate in the planning and development of programs designed to improve
113 educational opportunities for English learners; and (iii) participating in the review of school or
114 district improvement plans established under section 59C of chapter 71 as the plans relate to
115 English learners. An English learner parent advisory council may meet at least once annually
116 with its school council established pursuant to said section 59C. The English learner parent

117 advisory council shall establish by-laws regarding officers and operational procedures. In the
118 course of its duties under this section, the English learner parent advisory council shall receive
119 assistance from the director of language acquisition programs for the school district or other
120 appropriate school personnel as designated by the superintendent.

121 SECTION 20. The first paragraph of section 7A of said chapter 71A, as so appearing, is
122 hereby amended by striking out the second sentence and inserting in place thereof the following
123 2 sentences:- The evaluation shall include, but shall not be limited to: (i) a review of individual
124 student records of all English learners; (ii) a review of the number of waivers issued by the
125 school and when applicable, the type of alternative instructional program provided; (iii) a review
126 of the programs and services provided to English learners; (iv) a review of the dropout,
127 graduation, discipline and special education incidence rates of English learners formerly enrolled
128 in the district within the prior 3 years; (v) a description of the processes by which school-based
129 teams consisting of educators, administrators and support staff, monitor the progress of English
130 learners and former English learners; (vi) a review of the amount, frequency and effectiveness of
131 English as a second language instruction; and (vii) a review of the administration and
132 coordination of English learner education programs. The advisory council for bilingual education
133 established pursuant to section 1G of chapter 15 shall annually review the results of the
134 department's monitoring of English learner programs in school districts.

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

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

147 SECTION 23. Not later than July 1, 2018 the department of elementary and secondary
148 education shall establish guidelines relative to English learner parent advisory councils created
149 pursuant to section 6A of chapter 71A of the General Laws. The guidelines shall include, but not
150 be limited to the process for parents or legal guardians to be notified of English learner parent
151 advisory councils and the process for the appointment of volunteer parents or legal guardians to
152 the council.

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

160 SECTION 25. There shall be a special commission to investigate and study the current
161 collection and dissemination of school district and statewide data relative to school-age English
162 language learners.

163 The commission shall consist of 17 members: 2 of whom shall be the house and senate
164 chairs of the joint committee on education, or their designees, who shall serve as the co-chairs; 1
165 of whom shall be a member of the senate, appointed by the senate president; 1 of whom shall be
166 a member of the house of representatives, appointed by the speaker of the house of
167 representatives; 1 of whom shall be member of the senate, appointed by the minority leader of
168 the senate; 1 of whom shall be a member of the house of representatives, appointed by the
169 minority leader of the house of representatives; 1 of whom shall be the commissioner of the
170 department of elementary and secondary education, or a designee; 1 of whom shall be the
171 executive director of the Massachusetts Association of School Superintendents, Inc. or a
172 designee; 1 of whom shall be the executive director of the Massachusetts Association of School
173 Committees or a designee; 1 of whom shall be the executive director of the Massachusetts
174 Elementary School Principals' Association, Inc. or a designee; 1 of whom shall be the executive
175 director of the Massachusetts Secondary School Administrators' Association, Incorporated, or a
176 designee; 1 of whom shall the executive director of the Massachusetts Administrators of Special
177 Education. Inc., or a designee; 1 of whom shall be representative of the Massachusetts
178 Association of Teachers of Speakers of Other Languages, Inc.; and 4 of whom shall be appointed
179 by the governor: 2 of whom shall be selected from a list of 3 superintendents from school
180 districts serving high concentrations of English language learners nominated by the
181 Massachusetts Association of School Superintendents, Inc. and 2 of whom shall be selected from

182 a list of 3 district-level English language learner directors nominated by the Massachusetts
183 Association of School Superintendents, Inc.

184 The commission shall: (i) study, review and report on all existing school and district
185 reporting requirements relative to English language learners, including but not limited to annual
186 reporting requirements relative to English language learners as required under section 1I of
187 chapter 69; (ii) consider how current data is collected and used to evaluate English language
188 learner programming and its effectiveness; (iii) review the waiver and parental notification
189 process, and the effectiveness and transparency of district and state reporting relative to English
190 language learners; and (iv) consider improvements to data collection and dissemination relative
191 to English language learners.

192 The commission may meet with state agencies, parents, guardians, teachers, school
193 administrators, and any person the chairs deem necessary for the purpose of filing its report.

194 The commission shall file a report containing its finding and any recommendations with
195 the clerks of the house of representatives and the senate not later than February 1, 2018.

196 SECTION 25A. Section 3 of chapter 71A of the General Laws, as appearing in the 2016
197 Official Edition, is hereby amended by striking out, in line 5, the word “Kindergarten” and
198 inserting in place thereof the following word: “Pre-Kindergarten”.

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

201 SECTION 27. Section 7A of Chapter 71A of the General Laws, as appearing in the 2016
202 Official Edition, is hereby amended by striking the first sentence and replacing it with the

203 following sentence:— The department shall conduct on-site visits to level 1 and 2 school districts
204 at least once every 5 years, and in all other school districts at least once every 3 years, for the
205 purpose of evaluating the effectiveness of programs serving English learners and to validate
206 evidence of educational outcomes.

207 SECTION 28. The department of elementary and secondary education shall convene a
208 task force to study the feasibility of establishing a State Seal of Biliteracy. The task force shall
209 consist of 14 members: the commissioner of the department of elementary and secondary
210 education, or a designee; the secretary of the executive office of education, or a designee; the
211 house and senate chairs of the joint committee on education, or their designees; 1 member of the
212 senate, appointed by the senate president; 1 member of the house of representatives, appointed
213 by the speaker; 1 member of the senate, appointed by the minority leader; 1 member of the house
214 of representatives, appointed by the minority leader; 1 representative of the Massachusetts
215 Association of Teachers of Speakers of Other Languages; 1 representative of the Massachusetts
216 Association for Bilingual Education; 1 representative of the Massachusetts Foreign Language
217 Association; 1 representative from the Massachusetts Business Alliance for Education; and 2
218 superintendents, appointed by the Massachusetts Association of School Superintendents, Inc.,
219 one of whom shall be from a school district that serves high concentrations of English language
220 learners, and one of whom shall be from a school district that currently operates a program for
221 recognizing students who have attained Biliteracy.

222 The task force shall examine: (i) criteria or guidelines that would need to be established
223 to award a state Seal of Biliteracy; (ii) the academic benchmarks that would need to be met in
224 order for a student to be awarded such a Seal; (iii) potential costs associated with implementing
225 such a Seal; (iv) the need for any additional assessments, state or local; and (v) the benefits to

226 students of receiving such a Seal, including English Language Learners as well as native English
227 speakers.

228 The task force shall file a report containing its finding and any recommendations with the
229 joint committee on education, and the clerks of the house and the senate not later than January 1,
230 2018.