

SENATE No. 297

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 promote the education success of court involved children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/29/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/4/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/7/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/11/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/13/2019</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>3/4/2019</i>

SENATE No. 297

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 297) of Patricia D. Jehlen, Mike Connolly, Joseph A. Boncore, James B. Eldridge and other members of the General Court for legislation to promote the education success of court involved children. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to promote the education success of court involved 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 37H of chapter 71 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out subsection (a) in lines 41-47 and inserting in
3 place thereof the following subsection:-

4 “(a) Any student who is found on school premises or at school-sponsored or school-
5 related events, including athletic games, in possession of a dangerous weapon, defined as a
6 device, instrument, material, or substance, animate or inanimate, that is used for, or is readily
7 capable of, causing death or serious bodily injury, except that such term does not include a
8 pocket knife with a blade of less than 2½ inches in length or a controlled substance as defined in
9 chapter ninety-four C, including, but not limited to, cocaine, and heroin, may be subject to
10 expulsion from the school or school district by the principal.”

11 SECTION 2. Subsection (b) of section 37H of chapter 71 of the General Laws, as so
12 appearing, is hereby further amended by striking out in line 48 the word, “assaults” and inserting
13 in place thereof the following words:- “willfully assaults, with intent and means to harm”

14 SECTION 3. Subsection (c) of section 37H of chapter 71 of the General Laws, as so
15 appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof
16 the following subsection:-

17 “(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be
18 notified in writing of an opportunity for a hearing; provided, however, that the student may have
19 representation, along with adequate time to prepare for the hearing; access to documented
20 evidence prior to the hearing; the opportunity to present evidence and witnesses at said hearing
21 before the principal, the opportunity to question the school’s witnesses and a reasonably prompt
22 written decision including specific grounds for the decision. The principal or headmaster shall
23 ensure that the parent or guardian of the student is included in the meeting, provided that such
24 meeting may take place without the parent or guardian only if the principal or headmaster can
25 document reasonable efforts to include the parent or guardian in that meeting. The department
26 shall promulgate rules and regulations that address a principal's duties under this subsection and
27 procedures for including parents in student exclusion meetings, hearings or interviews under this
28 subsection.

29 Any principal, headmaster, superintendent or other person acting as a decision-maker at a
30 student meeting or hearing, when deciding the consequences for the student, shall exercise
31 discretion; consider ways to re-engage the student in the learning process; and avoid using
32 expulsion as a consequence until other remedies and consequences have been employed.”

33 SECTION 4. Subsection (1) of section 37H1/2 of chapter 71 of the General Laws, as so
34 appearing, is hereby amended by striking out in lines 3-5, inclusive, the words, “issuance of a
35 criminal complaint charging a student with a felony or upon the issuance of a felony delinquency
36 complaint against a student” and inserting in place thereof the following words:-

37 “arraignment or indictment of a student for an offense involving the infliction or threat of
38 serious bodily harm in violation of law or a violation of paragraph (a), (c) or (d) of section ten or
39 section ten E of chapter two hundred and sixty-nine”

40 SECTION 5. Subsection (1) of section 37H1/2 of chapter 71 of the General Laws, as so
41 appearing, is hereby further amended by striking out in lines 10-12, inclusive, the sentence, “The
42 student shall receive written notification of the charges and the reasons for such suspension prior
43 to such suspension taking effect.” and inserting in place thereof the following sentence:-

44 “The student shall receive written notification of the charges and the right to a hearing
45 before the principal. If after the hearing, the principal chooses to suspend the student, the
46 written notice of the suspension shall include the reasons for such suspension, including the basis
47 for the principal’s determination of the student’s detrimental effect, prior to such suspension
48 taking effect.”

49 SECTION 6. Subsection (2) of section 37H1/2 of chapter 71 of the General Laws, as so
50 appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the
51 following three paragraphs:-

52 “(2) Upon a student being convicted of a felony offense involving the infliction or threat
53 of serious bodily harm in violation of law or a violation of paragraph (a), (c) or (d) of section ten
54 or section ten E of chapter two hundred and sixty- or upon an adjudication as a youthful

55 offender, pursuant to section 54 of chapter 119, the principal or headmaster of a school in which
56 the student is enrolled may expel said student if such principal or headmaster determines that the
57 student's continued presence in school would have a substantial detrimental effect on the general
58 welfare of the school. The student shall receive written notification of the charges and right to a
59 hearing before the principal. If after the hearing, the principal chooses to suspend or expel the
60 student, the written notice shall include the reasons for such exclusion, including the basis for the
61 principal's determination of the student's detrimental effect prior to such expulsion taking effect.
62 The student shall also receive written notification of his right to appeal and the process for
63 appealing such expulsion; provided, however, that the expulsion shall remain in effect prior to
64 any appeal hearing conducted by the superintendent.

65 For any suspension or expulsion under this section, the principal or headmaster of a
66 school in which the student is enrolled shall provide, to the student and to the parent or guardian
67 of the student, notice of the charges and the reason for the suspension or expulsion in English
68 and in the primary language spoken in the home of the student. The student shall receive the
69 written notification and shall have the opportunity to meet for a fair hearing before the principal
70 or headmaster to discuss the charges and reasons for the suspension or expulsion prior to the
71 suspension or expulsion taking effect. The notice shall include the right to be represented by a
72 lawyer or advocate (at the student's expense); adequate time to prepare for the hearing; access to
73 documented evidence prior to the hearing; the right to request that witnesses attend the hearing
74 and to question them and a reasonably prompt written decision including specific grounds for the
75 decision.

76 The principal or headmaster shall ensure that the parent or guardian of the student is
77 included in the meeting, provided that such meeting may take place without the parent or

78 guardian only if the principal or headmaster, or a designee, can document reasonable efforts to
79 include the parent or guardian in that meeting. The department shall promulgate rules and
80 regulations that address a principal's duties under this subsection and procedures for including
81 parents in student exclusion meetings, hearings or interviews under this subsection.”