

SENATE No. 313

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 preventing the sexual abuse of children and youth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/29/2019</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/28/2019</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>1/30/2019</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>	<i>1/30/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>1/30/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/31/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/1/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/4/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/4/2019</i>

SENATE No. 313

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 313) of Joan B. Lovely, Kay Khan, Bradley H. Jones, Jr., John Barrett, III and other members of the General Court for legislation to prevent the sexual abuse of children and youth. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 295 OF 2017-2018.]

The Commonwealth of Massachusetts

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

An Act relative to preventing the sexual abuse of children and 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. Section 85K of chapter 231, as appearing in the 2016 Official Edition, is
2 hereby amended by inserting after the word "care," in line 11, the following:-

3 or in a civil action for sexual abuse of a minor, as that term is defined in section 4C½ of
4 chapter 260,

5 SECTION 2. Section 85V of said chapter 231 is hereby amended by inserting after
6 clause (iii) the following clause:-

7 (iv) a civil action for sexual abuse of a minor, as that term is defined in section 4C½ of
8 chapter 260.

9 SECTION 3. Section 85W of said chapter 231 is hereby amended by inserting after the
10 word “automobile”, in line 20, the following words:-

11 or in a civil action for sexual abuse of a minor, as that term is defined in section 4C½ of
12 chapter 260

13 SECTION 4. Subsection (j) of section 10 of chapter 258 of the General Laws, as
14 appearing in the 2016 Official Edition, is hereby amended by inserting after paragraph (4), the
15 following paragraph:-

16 (5) any claim by or on behalf of a person who alleges that he was sexually abused as a
17 child, as that term is defined in section 4C of chapter 260.

18 SECTION 5. Section 2 of chapter 258C of the General Laws, as appearing in the 2016
19 Official Edition, is hereby amended by inserting after subsection (b), the following subsection:-

20 (b1) In the case of a claimant who was sexually abused as a minor, such good cause shall
21 include the report of a duly licensed mental health professional stating an opinion that the
22 claimant did not make the connection between the sexual abuse and the harm suffered by the
23 claimant at the time the abuse occurred, and that claimant's failure to make the connection was
24 consistent with the typical responses by such victims of childhood sexual abuse.

25 SECTION 6. Subsection (a) of section 5 of said chapter 258C is hereby amended by
26 inserting after section paragraph (1) the following paragraph:-

27 (1A) In the case of a claimant who was sexually abused as a minor, said three years shall
28 commence to run when the claimant first makes the connection between the sexual abuse and the
29 harm suffered by the claimant as a result. The report of a duly licensed mental health

30 professional stating an opinion as to the date when the claimant first made the connection
31 between the sexual abuse and the harm suffered by the claimant, and that the claimant's failure to
32 make the connection prior to that date was consistent with the typical responses by such victims
33 of childhood sexual abuse, shall be prima facie evidence in all proceedings under this chapter.

34 SECTION 7. Chapter 268 of the General Laws, as appearing in the 2016 Official Edition,
35 is hereby amended by inserting after section 21B the following section:-

36 Section 21C. A person over the age of 21 who is employed by or contracts with a public
37 or private school, the department of youth services, the department of children and families, the
38 department of mental health, the department of developmental services or a private institution
39 that provides services to clients of such departments, who is a teacher, administrator or a person
40 in a similar position of authority in the school, department or institution and, in the course of
41 such employment or contract or as a result thereof, engages in, within or outside of the school,
42 department or institution, sexual relations with a person who is: (i) under the age of 19, has not
43 received a high school diploma, general educational development certificate or equivalent
44 document and is served by the school, department or institution; or (ii) under the age of 22, has
45 special needs under chapter 71B, has not received a high school diploma, general educational
46 development certificate or equivalent document and is served by the school, department or
47 institution, shall have a cause of action against such an employee or contractor, under chapter
48 260, section 4C. In a civil action commenced under said section, a person served by such
49 school, department or institution shall be deemed incapable of consent to sexual relations with
50 such an employee or contractor.

51 SECTION 8. Said chapter 268 is hereby amended by inserting after section 21A the
52 following section:-

53 Section 21B. A person over the age of 21 who is employed by or contracts with a public
54 or private school, the department of youth services, the department of children and families, the
55 department of mental health, the department of developmental services or a private institution
56 that provides services to clients of such departments, who is a teacher, administrator or a person
57 in a similar position of authority in the school, department or institution and, in the course of
58 such employment or contract or as a result thereof, engages in, within or outside of the school,
59 department or institution, sexual relations with a person who is: (i) under the age of 19, has not
60 received a high school diploma, general educational development certificate or equivalent
61 document and is served by the school, department or institution; or (ii) under the age of 22, has
62 special needs under chapter 71B, has not received a high school diploma, general educational
63 development certificate or equivalent document and is served by the school, department or
64 institution, shall be punished by imprisonment in a state prison for not more than 5 years or in a
65 jail or house of corrections for not more than 2½ years, by a fine of \$10,000 or by both such fine
66 and imprisonment. In a prosecution commenced under this section, an individual served by such
67 a school, department or institution shall be deemed incapable of consent to sexual relations with
68 the person.