# HOUSE . . . . . . . . . . . . . No. 1801

## The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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 sexual assaults by adults in positions of authority or trust.

#### PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Liz Miranda	5th Suffolk	2/19/2021
Michelle M. DuBois	10th Plymouth	2/26/2021
Bud L. Williams	11th Hampden	2/26/2021
Vanna Howard	17th Middlesex	2/26/2021
David Allen Robertson	19th Middlesex	3/16/2021

### HOUSE . . . . . . . . . . . . . . No. 1801

By Ms. Miranda of Boston, a petition (accompanied by bill, House, No. 1801) of Liz Miranda and others relative to sexual assaults by adults in positions of authority or trust. The Judiciary.

### The Commonwealth of Alassachusetts

In the One Hundred and Ninety-Second General Court (2021-2022)

An Act relative to sexual assaults by adults in positions of authority or trust.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- SECTION 1. Chapter 265 of the General Laws is hereby amended by inserting after section 13B the following section:-
- 3 Section 13B1/4.

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(a) As used in this section, "position of trust, authority or supervision over a child" shall include a teacher, substitute teacher, coach, tutor, special educator, paraprofessional, mentor or other person providing instruction or educational services to a child or children, whether such person is compensated, acting as a volunteer, or employed or contracted in any capacity in private or public schools; or a person who is an instructor, tutor or coach of any athletic, artistic, or academic club, team, institution or organization, or an individual tutor or coach; or a parent, stepparent, adoptive parent, legal guardian, foster parent, or any person with custodial authority or supervision of a child or children; or a babysitter, child care provider, or child care aide, whether such person is compensated or acting as a volunteer; or any other person who because of

that person's familial relationship, profession, employment, vocation, avocation or volunteer service has regular direct contact with a child or children.

- (b) Whoever commits an indecent assault and battery on a child who has attained the age of 14 and is under the age of 18, and who is a mandated reporter as defined in section 21 of chapter 119, or who is in a position of trust, authority or supervision over a child as defined in this section and who commits the indecent assault and battery in the course of acting in that position or at any time thereafter, shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of corrections for not more than 2 ½ years. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.
- (c) Whoever commits an indecent assault and battery on a child who is under the age of 14, and who is a mandated reporter as defined in section 21 of chapter 119, or who is in a position of trust, authority or supervision over a child as defined in this section, and who commits the indecent assault and battery in the course of acting in that position or at any time thereafter, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his or her sentence for good conduct until he or she shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.
- In a prosecution under this section, a child under the age of 18 shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.

It shall not be a defense to a prosecution under this section that the position of trust, authority or supervision over a child has ended, if the child is under the age of 18 at the time of the offense.

SECTION 2. Section 13B1/2 of said chapter 265 is hereby amended by striking out subsection (b).

SECTION 3. Section 23A of said chapter 265 is hereby amended by striking out subsection (c).

SECTION 4. Said chapter 265 is hereby further amended by inserting after section 23A the following section:-

#### Section 23A1/2.

- (a) Whoever unlawfully has sexual intercourse or unnatural sexual intercourse with and abuses a child who has attained the age of 16 and is under the age of 18, and who is a mandated reporter as defined in section 21 of chapter 119, or who is in a position of trust, authority or supervision over a child as defined in section 13B1/4 of chapter 265, and who commits such conduct in the course of acting in that position or at any time thereafter, shall be punished by imprisonment in the state prison for life or for any terms of years or, except as otherwise provided, for any term in a jail or house of correction. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.
- (b) Whoever unlawfully has sexual intercourse or unnatural sexual intercourse with and abuses a child who is under the age of 16, and who is a mandated reported as defined in section 21 of chapter 119, or who is in a position of trust, authority or supervision over a child as defined

in section 13B1/4 of chapter 265, and who commits such conduct in the course of acting in that position or at any time thereafter, shall be punished by imprisonment in the state prison for life or for any terms of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his or her sentence for good conduct until he or she shall have served 10 years of such sentence.

Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

- In a prosecution under this section, a child under the age of 18 shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.
- It shall not be a defense to a prosecution under this section that the position of trust, authority or supervision over a child has ended, if the child is under the age of 18 at the time of the offense.
- SECTION 5. Section 63 of chapter 277 of the General Laws, as appearing in the 2018

  Official Edition, is hereby amended by inserting after "13B,", in line 2, the following:
  "13B1/4,".
- SECTION 6. Said section 63 of chapter 277 is hereby further amended by inserting after "23A,", in line 3, the following:- "23A1/2,".
- SECTION 7. Said section 63 of chapter 277 is hereby further amended by inserting after "13B,", in line 16, the following:- "13B1/4,".

SECTION 8. Said section 63 of chapter 277 is hereby further amended by inserting after

77 "23A,", in line 16, the following:- "23A1/2,".