

HOUSE No. 4138

The Commonwealth of Massachusetts

PRESENTED BY:

Steven Ultrino

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 requiring accountability for inequities in suspension and expulsion – The RAISE Act.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------------------|--------------------------------|-------------------|
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> | <i>2/16/2021</i> |
| <i>Lindsay N. Sabadosa</i> | <i>1st Hampshire</i> | <i>2/19/2021</i> |
| <i>John Barrett, III</i> | <i>1st Berkshire</i> | <i>2/19/2021</i> |
| <i>Tami L. Gouveia</i> | <i>14th Middlesex</i> | <i>2/22/2021</i> |
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i> | <i>2/23/2021</i> |
| <i>Danillo A. Sena</i> | <i>37th Middlesex</i> | <i>3/8/2021</i> |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | <i>3/15/2021</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> | <i>10/5/2021</i> |
| <i>Joan Meschino</i> | <i>3rd Plymouth</i> | <i>11/9/2021</i> |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> | <i>11/23/2021</i> |
| <i>Tommy Vitolo</i> | <i>15th Norfolk</i> | <i>12/1/2021</i> |
| <i>Tricia Farley-Bouvier</i> | <i>3rd Berkshire</i> | <i>12/15/2021</i> |
| <i>Jessica Ann Giannino</i> | <i>16th Suffolk</i> | <i>1/5/2022</i> |
| <i>John J. Cronin</i> | <i>Worcester and Middlesex</i> | <i>1/18/2022</i> |
| <i>John J. Mahoney</i> | <i>13th Worcester</i> | <i>1/21/2022</i> |
| <i>James J. O'Day</i> | <i>14th Worcester</i> | <i>1/24/2022</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>1/26/2022</i> |
| <i>Natalie M. Blais</i> | <i>1st Franklin</i> | <i>2/2/2022</i> |

HOUSE No. 4138

By Mr. Ultrino of Malden, a petition (accompanied by bill, House, No. 4138) of Steven Ultrino and others relative to addressing disparities in achievement and suspensions and expulsions among student subgroups. Education.

The Commonwealth of Massachusetts

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

An Act requiring accountability for inequities in suspension and expulsion – The RAISE Act.

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 1S of chapter 69 of the General Laws, added by section 5 of chapter
2 132 of the acts of 2019, is hereby amended by striking out paragraphs (a) and (b) and inserting in
3 place thereof the following 2 paragraphs:-

4 (a) The commissioner shall establish statewide targets for addressing persistent disparities
5 in achievement and suspension and expulsion among student subgroups in the aggregate and
6 within subcategories, including, but not limited to, subject matter and relevant grade levels. The
7 targets shall include annual benchmarks on the progress expected to be achieved in the aggregate
8 and by subcategory.

9 (b) Each district shall establish targets for addressing persistent disparities in achievement
10 and suspension and expulsion among student subgroups consistent with the targets established by
11 the department. Each district shall develop an evidence-based 3-year plan to meet its targets.
12 Each district’s plan shall be developed by the superintendent in consultation with the school

13 committee and shall consider input and recommendations from parents and other relevant
14 community stakeholders, including but not limited to, special education and English learner
15 parent advisory councils, school improvement councils and educators in the school district.

16 SECTION 2. Paragraph (c) of said section 1S of said chapter 69, as so appearing, is
17 hereby amended by striking out clauses (ii) and (iii) and inserting in place thereof the following 2
18 clauses:-

19 (ii) a description of the evidence-based programs, supports and interventions that the
20 school district will implement to address persistent disparities in achievement and suspension
21 and expulsion among student subgroups, including, but not limited to: (A) expanded learning
22 time in the form of a longer school day or school year; (B) increased opportunity for common
23 planning time for teachers; (C) social services to support students' social-emotional and physical
24 health; (D) hiring school personnel that best support improved student performance; (E)
25 increased or improved professional development; (F) purchase of curriculum materials and
26 equipment that are aligned with the statewide curriculum frameworks; (G) expanding early
27 education and pre-kindergarten programming within the district in consultation or in partnership
28 with community-based organizations; (H) diversifying the educator and administrator workforce;
29 (I) developing additional pathways to strengthen college and career readiness; (J) implementing
30 evidence-based disciplinary and educational models to reduce suspension and expulsion rates,
31 disparities in suspension and expulsion rates between any subgroup and all students and
32 disparities in annual days of exclusion for excluded students in each subgroup, calculated as the
33 days lost per 100 enrolled. This rate of lost instruction is to be compared to all excluded students
34 including, but not limited to: positive behavioral interventions and supports models; response to
35 intervention models; restorative justice models; and trauma sensitive learning models; (K)

36 implementing intermediary disciplinary steps before the use of suspension or expulsion
37 including, but not limited to: mediation, conflict resolution, restorative justice, or collaborative
38 problem solving; and (L) any other program determined to be evidence-based by the
39 commissioner; provided, however, that if a district elects not to implement the evidence-based
40 programs described in clauses (A) to (L), inclusive, the district plan shall specify the reasons for
41 electing not to implement said programs including a description of why said programs would not
42 effectively address persistent disparities in achievement and suspensions and expulsions among
43 student subgroups;

44 (iii) identification of outcome metrics to be used by the district to measure success in
45 addressing persistent disparities in achievement and suspension and expulsion among student
46 subgroups; provided, however, that the department shall develop standard metrics that may be
47 incorporated in district plans and may include: (A) results from the statewide student assessment
48 including student growth; (B) results from the English proficiency assessment administered to
49 English learners; (C) grade-level completion and attendance data; (D) participation in advanced
50 coursework; and (E) rates of suspension, expulsion and lost instruction; and (F) other indicators
51 of district and school climate, diversity and performance; and.

52 SECTION 3. Said section 1S of said chapter 69, as so appearing, is hereby further
53 amended by striking out paragraphs (d) and (e) and inserting in place thereof the following 2
54 paragraphs:-

55 (d) Each district shall submit its plan to the department every 3 years. Upon receipt of a
56 district plan, the commissioner shall review the plan to ensure that it sets forth clear, appropriate
57 and achievable goals and measurable standards for student improvement that comply with the

58 requirements of this section; provided, however, that the district shall amend any plan deemed
59 not to conform with the requirements of this section. Following the submission of a 3-year plan,
60 each district shall annually, not later than April 1, submit to the department and to the public: (i)
61 relevant data, pursuant to its plan, to assess success in addressing persistent disparities in
62 achievement and suspension and expulsion among student subgroups; and (ii) amendments to the
63 plan that reflect changes deemed necessary to improve district performance in meeting plan
64 goals. Each plan shall be made publicly available on both the submitting district's website and
65 the department's website.

66 (e) Annually, not later than December 31, the commissioner shall submit a report to the
67 clerks of the house of representatives and the senate and the chairs of the joint committee on
68 education on the progress made in addressing persistent disparities in achievement and
69 suspension and expulsion among student subgroups in the aggregate and within subcategories on
70 a statewide basis; provided, however, that district and school-level data shall be made available
71 on the department's website along with the report.

72 SECTION 4. Section 37H of chapter 71 of the General Laws, as appearing in the 2018
73 Official Edition, is hereby amended by inserting before the first paragraph the following
74 definitions:-

75 As used in this section, the following words shall, unless the context clearly requires
76 otherwise, have the following meanings:-

77 "Dangerous weapon," a device, instrument, material or substance, animate or inanimate,
78 that is used for, or is readily capable of, causing death or serious bodily injury;

79 “Disparate rate of lost instruction,” an aggregate rate of lost instruction per 100 students
80 in a particular subgroup which deviates from the aggregate rate of lost instruction per 100
81 students in a school or district by greater than or equal to 1½ standard deviations;

82 “Disproportionate number of students,” a rate of suspension and expulsion per 100
83 students in a specific subgroup in a school or district which deviates from the aggregate rate of
84 suspension and expulsion per 100 students in a school or district, by greater than or equal to 1½
85 standard deviations;

86 “Expulsion,” the removal of a student from the school premises, regular classroom
87 activities and school activities for more than 90 school days, indefinitely or permanently, as
88 permitted pursuant to this section or section 37H½;

89 “Homeless children and youths,” students who lack a fixed, regular and adequate
90 nighttime residence as defined in 42 USC Chapter 119, Subchapter VI, Part B, §11434a.

91 “Rate of lost instruction,” a rate of days of exclusion for all students or for a particular
92 student subgroup derived by taking the cumulative number of days of instruction lost due to
93 exclusion in a school year, dividing by the total number of students or total number of students in
94 a subgroup, and multiplying by 100

95 “Significant number of students,” a percentage of students in a given school that is
96 greater than the Commonwealth’s aggregate rate of suspension and expulsion per 100 students as
97 calculated annually by the department of elementary and secondary education;

98 “Standard deviations,” the square root of the average of the squares of the differences
99 between each adjusted composite rate for a student subgroup in a school or district and the
100 average adjusted composite rate for all students in a school or district.

101 SECTION 5. Clause (b) of the fourth paragraph of section 37H of said chapter 71, as so
102 appearing, is hereby amended by striking out the word “assaults”, in line 48, and inserting in
103 place thereof the following words:- willfully assaults, with intent and means to harm,.

104 SECTION 6. Clause (f) of said fourth paragraph of said section 37H of said chapter 71,
105 as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof
106 the following sentence:- This report shall include district level data disaggregated and cross-
107 tabulated by student status and categories established by the commissioner including, but not
108 limited to: (a) race and ethnicity; (b) gender; (c) socioeconomic status; (d) English language
109 learner status; (e) disability status; (f) children in the care and custody of the department of
110 children and families; and (g) homeless children and youths.

111 SECTION 7. Said fourth paragraph of said section 37H of said chapter 71, as so
112 appearing, is hereby further amended by striking out clause (g) and inserting in place thereof the
113 following 2 clauses:-

114 (g) Under the regulations promulgated by the department, for each school that: (a)
115 suspends or expels a significant number of students for more than 10 cumulative days in a school
116 year; (b) suspends or expels a disproportionate number of students from any of the subgroups
117 named in paragraph (f) or designated by the commissioner; or (c) displays disparate rates of lost
118 instruction between subgroups, the commissioner shall investigate and shall recommend models
119 that incorporate intermediary steps prior to the use of suspension or expulsion and address

120 disproportionate discipline, in both incidence and duration, of any subgroup. The commissioner
121 shall publicly identify and categorize schools that fall into 1 or more of the following categories:
122 (a) the school has suspended or expelled a significant number of students for more than 10 days;
123 (b) the school has suspended or expelled a disproportionate number of students from any of the
124 subgroups named in paragraph (f) or designated by the commissioner; or (c) the school has
125 displayed disparate rates of lost instruction for any subgroup. The results of this analysis shall be
126 made publicly available on both the district's website and the department's website.

127 (h) Annual reports and accountability plans submitted by charter schools pursuant to
128 regulations promulgated by the department shall contain data consistent with the requirements
129 set forth in this section.

130 SECTION 8. Paragraph (1) of section 37H½ of said chapter 71, as so appearing, is
131 hereby amended by striking out the words "Upon the issuance of a criminal complaint charging a
132 student with a felony or upon issuance of a felony delinquency complaint against a student", in
133 lines 3 to 5, inclusive, and inserting in place thereof the following words:- Upon the arraignment
134 or indictment of a student for a felony offense involving the infliction or threat of serious bodily
135 harm in violation of law or a violation of paragraph (a), (c) or (d) of section ten or section ten E
136 of chapter two hundred and sixty-nine

137 SECTION 9. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,
138 is hereby further amended by striking out the words "have a substantial detrimental effect on the
139 general welfare of the school", in lines 9 and 10, and inserting in place thereof the following
140 words:- pose a specific, documentable concern about the infliction of serious bodily injury upon
141 another person while in school.

142 SECTION 10. Paragraph (2) of said section 37H½ of said chapter 71, as so appearing, is
143 hereby amended by striking out the words “have a substantial detrimental effect on the general
144 welfare of the school”, in lines 37 and 38, and inserting in place thereof the following words:-
145 pose a specific, documentable concern about the infliction of serious bodily injury upon another
146 person while in school.

147 SECTION 11. Section 37H¾ of said chapter 71, as so appearing, is hereby amended by
148 striking out paragraph (b) and inserting in place thereof the following paragraph:-

149 (b) Any principal, headmaster, superintendent or other person acting as a decision-maker
150 at a student meeting or hearing, when deciding the consequences for the student, shall exercise
151 discretion; consider ways to re-engage the student in the learning process; and shall not suspend
152 or expel a student until alternative remedies have been employed and their use and results
153 documented, following and in direct response to a specific incident or incidents, except in cases
154 where the student’s continued presence in school would pose a specific, documentable concern
155 about the infliction of serious bodily injury upon another person while in school. Said remedies
156 may include, but not be limited to: (i) mediation; (ii) conflict resolution; (iii) restorative justice;
157 and (iv) collaborative problem solving. Said principal, headmaster, superintendent or person
158 acting as a decision maker shall also exercise discretion in implementing school- or district-wide
159 models to re-engage students in the learning process, including but not limited to (i) positive
160 behavioral interventions and supports models; (ii) response to intervention models; and (iii)
161 trauma sensitive learning models, provided however that said school- or district-wide models
162 shall not be considered a direct response to a specific incident.