

HOUSE No. 664

The Commonwealth of Massachusetts

PRESENTED BY:

Joan Meschino

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:	DATE ADDED:
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>2/3/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/24/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/24/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/24/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/25/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/3/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/15/2021</i>

HOUSE No. 664

By Ms. Meschino of Hull, a petition (accompanied by bill, House, No. 664) of Joan Meschino and others relative to school policies for students found with certain weapons or charged with certain violations. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 531 OF 2019-2020.]

The Commonwealth of Massachusetts

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

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. Subsection (a) of section 37H of chapter 71 of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by striking out in lines 43 to 44,
3 inclusive, the words, “including, but not limited to, a gun or a knife” and inserting in place
4 thereof the following words:-

5 “defined as a device, instrument, material, or substance, animate or inanimate, that is
6 used for, or is readily capable of, causing death or serious bodily injury, except that such term
7 does not include a pocket knife with a blade of less than 2½ inches in length or a controlled
8 substance as defined in chapter ninety-four C, including, but not limited to, cocaine, and heroin,
9 may be subject to expulsion from the school or school district by the principal.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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