

SENATE No. 2786

The Commonwealth of Massachusetts

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

SENATE, March 24, 2022.

The committee on Education, to whom was referred the petition (accompanied by bill, Senate, No. 344) of Patricia D. Jehlen, Jack Patrick Lewis, Christopher Hendricks, Mary S. Keefe and other members of the General Court for legislation to promote the education success of court involved children, reports the accompanying bill (Senate, No. 2786).

For the committee,
Jason M. Lewis

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

4 SECTION 2. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,
5 is hereby further amended by striking out the words “have a substantial detrimental effect on the
6 general welfare of the school”, in lines 9 and 10, and inserting in place thereof the following
7 words:- pose a specific, documentable concern about the infliction of serious bodily injury upon
8 another person while in school.

9 SECTION 3. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,
10 is hereby further amended by striking out, in lines 10 to 12, inclusive, the sentence, “The student
11 shall receive written notification of the charges and the reasons for such suspension prior to such
12 suspension taking effect” and inserting in place thereof the following two sentences:-

13 The student shall receive written notification of the charges and the right to a hearing
14 before the principal. If, after the hearing, the principal chooses to suspend the student, the written
15 notice of the suspension shall include the reasons for such suspension, including the basis for the
16 principal's determination of the student's detrimental effect, prior to such suspension taking
17 effect.

18 SECTION 4. Paragraph (2) of said section 37H½ of said chapter 71, as so appearing, is
19 hereby amended by striking out the first paragraph and inserting in place thereof the following
20 three paragraphs:-

21 Upon a student being convicted of a or upon an adjudication or admission in court of
22 guilt with respect to such a felony or felony delinquency, the principal or headmaster of a school
23 in which the student is enrolled may expel said student if such principal or headmaster
24 determines that the student's continued presence in school would pose a specific, documentable
25 concern about the infliction of serious bodily injury upon another person while in school. The
26 student shall receive written notification of the charges and right to a hearing before the
27 principal. If after the hearing, the principal chooses to suspend or expel the student, the written
28 notice shall include the reasons for such exclusion, including the basis for the principal's
29 specific, documentable concern about the student's continued presence in school, prior to such
30 expulsion taking effect. The student shall also receive written notification of his right to appeal
31 and the process for appealing such expulsion; provided, however, that the expulsion shall remain
32 in effect prior to any appeal hearing conducted by the superintendent.

33 For any suspension or expulsion under this section, the principal or headmaster of a
34 school in which the student is enrolled shall provide, to the student and to the parent or guardian

35 of the student, notice of the charges and the reason for the suspension or expulsion in English
36 and in the primary language spoken in the home of the student. The student shall receive the
37 written notification and shall have the opportunity to meet for a fair hearing before the principal
38 or headmaster to discuss the charges and reasons for the suspension or expulsion prior to the
39 suspension or expulsion taking effect. The notice shall include the right to be represented by a
40 lawyer or advocate (at the student's expense); adequate time to prepare for the hearing; access to
41 documented evidence prior to the hearing; the right to request that witnesses attend the hearing
42 and to question them and a reasonably prompt written decision including specific grounds for the
43 decision.

44 The principal or headmaster shall ensure that the parent or guardian of the student is
45 included in the meeting, provided that such meeting may take place without the parent or
46 guardian only if the principal or headmaster, or a designee, can document reasonable efforts to
47 include the parent or guardian in that meeting. The department shall promulgate rules and
48 regulations that address a principal's duties under this subsection and procedures for including
49 parents in student exclusion meetings, hearings or interviews under this subsection.

50 SECTION 5. Section 37H³/₄ of said chapter 71, as so appearing, is hereby amended by
51 striking out paragraph (b) and inserting in place thereof the following paragraph:-

52 (b) Any principal, headmaster, superintendent or other person acting as a decision-maker
53 at a student meeting or hearing, when deciding the consequences for the student, shall exercise
54 discretion; consider ways to re-engage the student in the learning process; and shall not suspend
55 or expel a student until alternative remedies have been employed and their use and results
56 documented, following and in direct response to a specific incident or incidents, except in cases

57 where the student's continued presence in school would pose a specific, documentable concern
58 about the infliction of serious bodily injury upon another person while in school. Said remedies
59 may include, but not be limited to: (i) mediation; (ii) conflict resolution; (iii) restorative justice;
60 and (iv) collaborative problem solving. Said principal, headmaster, superintendent or person
61 acting as a decision maker shall also exercise discretion in implementing school- or district-wide
62 models to re-engage students in the learning process, including but not limited to (i) positive
63 behavioral interventions and supports models; (ii) response to intervention models; and (iii)
64 trauma sensitive learning models, provided however that said school- or district-wide models
65 shall not be considered a direct response to a specific incident.