

SENATE No. 344

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/26/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/4/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/16/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>3/16/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>4/28/2021</i>

SENATE No. 344

By Ms. Jehlen, a 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. Education.

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. Section 37H of chapter 71 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out subsection (a) in lines 41-47 and inserting in
3 place thereof the following subsection:-

4 “(a) Any student who is found on school premises or at school-sponsored or school-
5 related events, including athletic games, in possession of a dangerous weapon, defined as a
6 device, instrument, material, or substance, animate or inanimate, that is used for causing death or
7 serious bodily injury, except that such term does not include a pocket knife with a blade of less
8 than 2½ inches in length; or a controlled substance as defined in chapter ninety-four C, excluding
9 marijuana, 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 in English and in the primary language spoken in the student’s home of the
18 charge, and right to a hearing. The student shall have a right: to representation, along with
19 adequate time to prepare for the hearing; to access documented evidence prior to the hearing; to
20 present evidence; to request attendance of witnesses, to question and cross examine witnesses at
21 said hearing before the principal; and to a reasonably prompt written decision including specific
22 grounds for the decision. The principal or headmaster shall ensure that the parent or guardian of
23 the student is included in the hearing, provided that such hearing may take place without the
24 parent or guardian only if the principal or headmaster can document reasonable efforts to include
25 the parent or guardian in that hearing. The department shall promulgate rules and regulations that
26 address a principal's duties under this subsection and procedures for including parents in student
27 exclusion hearings under this subsection.

28 Any principal, headmaster, superintendent or other person acting as a decision-maker at a
29 student hearing, when deciding the consequences for the student who has been determined by
30 said person to have violated either paragraph (a) or (b), shall exercise discretion; consider ways
31 to re-engage the student in the learning process; and avoid using expulsion as a consequence
32 until other remedies and consequences have been employed. These efforts shall be documented
33 as part of the grounds for the decision.”

34 SECTION 4. Section 37H of chapter 71, as so appearing, is hereby amended by inserting
35 in subsection (d) in line 61, after the word “been” the following:- “suspended or”.

36 SECTION 5. Said section 37H of chapter 71 is hereby amended by striking in line 63 the
37 word “expelled”.

38 SECTION 6. Said section 37H of chapter 71 is hereby amended by inserting in line 64
39 after the word “expulsion” the following:- “or suspension”.

40 SECTION 7. Subsection (1) of section 37H1/2 of chapter 71 of the General Laws, as so
41 appearing, is hereby amended by striking out in lines 3-5, inclusive, the words, “issuance of a
42 criminal complaint charging a student with a felony or upon the issuance of a felony delinquency
43 complaint against a student” and inserting in place thereof the following words:- “arraignment
44 or indictment of a student for a felony offense involving the infliction or threat of serious bodily
45 harm in violation of law or a violation of paragraph (a), (c) or (d) of section ten or section ten E
46 of chapter two hundred and sixty-nine”.

47 SECTION 8. Subsection (1) of section 37H1/2 of chapter 71 of the General Laws, as so
48 appearing, is hereby further amended by striking out in lines 10-16, inclusive, the sentences,
49 “The student shall receive written notification of the charges and the reasons for such suspension
50 prior to such suspension taking effect. The student shall also receive written notification of his
51 right to appeal and the process for appealing such suspension; provided, however, that such
52 suspension shall remain in effect prior to any appeal hearing conducted by the superintendent”
53 and inserting in place thereof the following sentences.:- “The student shall receive written
54 notification in English and in the primary language spoken in the student’s home of the charges
55 and the right to a hearing before the principal consistent with the protections under subsection (c)

56 of section 37H of chapter 71. If after the hearing, the principal chooses to suspend the student,
57 the written findings of the suspension shall include the reasons for such suspension, including the
58 basis for the principal's determination that the court's decision to allow the student to attend
59 school in the community is insufficient to address concerns that the student's continued presence
60 in school would have a substantial detrimental effect on the general welfare of the school, prior
61 to such suspension taking effect. The student shall also receive written notification of his right to
62 appeal and the process for appealing such suspension and the right to remain in school prior to
63 any appeal hearing conducted by the superintendent."

64 SECTION 9. Subsection (2) of section 37H1/2 of chapter 71 of the General Laws, as so
65 appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the
66 following paragraph:-

67 "(2) Upon a student being convicted of a felony offense involving the infliction or threat
68 of serious bodily harm in violation of law or a violation of paragraph (a), (c) or (d) of section ten
69 or section ten E of chapter two hundred and sixty- or upon an adjudication as a youthful
70 offender, pursuant to section 54 of chapter 119, the principal or headmaster of a school in which
71 the student is enrolled may expel said student if such principal or headmaster determines that the
72 student's continued presence in school would have a substantial detrimental effect on the general
73 welfare of the school. The student shall receive written notification in English and in the primary
74 language spoken in the student's home of the charges and right to a hearing before the principal
75 consistent with the protections under subsection (c) or section 37H of Chapter 71. If after the
76 hearing, the principal chooses to suspend or expel the student, the written findings shall include
77 the reasons for such exclusion, including the basis for the principal's determination that the
78 court's decision to allow the student to attend school in the community is insufficient to address

79 concerns that the student’s continued presence in school would have a substantial detrimental
80 effect on the general welfare of the school prior to such suspension or expulsion taking effect.
81 The student shall also receive written notification in English and in the primary language spoken
82 in the student’s home of his right to appeal and the process for appealing such suspension or
83 expulsion; provided, however, that the suspension or expulsion shall remain in effect prior to any
84 appeal hearing conducted by the superintendent.

85 The principal or headmaster shall ensure that the parent or guardian of the student is
86 included in the hearing, provided that such hearing may take place without the parent or guardian
87 only if the principal or headmaster, can document reasonable efforts to include the parent or
88 guardian in that hearing. The department shall promulgate rules and regulations that address a
89 principal's duties under this section and procedures for including parents in student exclusion
90 meetings, hearings or interviews under this subsection.”

91 SECTION 10. Section 37H½ of chapter 71, as so appearing is hereby amended by
92 inserting in line 44, after the word “expulsion”, the following:- “or suspension”.

93 SECTION 11. Said section 37H½ is hereby amended by inserting in line 47, after the
94 word “expulsion”, the following:- “or suspension”.

95 SECTION 12. Said section 37H½ is hereby amended by inserting in line 49, after the
96 word “expulsion”, the following:- “or suspension”.

97 SECTION 13. Said section 37H½ is hereby amended by inserting in line 57, after the
98 word “expulsion”, the following:- “or suspension”.