HOUSE DOCKET, NO. 1606 FILED ON: 1/18/2023

HOUSE . . . . . No. 1538

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth I. Gordon

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 preventing educator sexual misconduct and abuse of children and youth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Kenneth I. Gordon	*21st Middlesex*	*1/18/2023*

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HOUSE . . . . . No. 1538

By Representative Gordon of Bedford, a petition (accompanied by bill, House, No. 1538) of Kenneth I. Gordon relative to preventing educator sexual misconduct and abuse of children and youth. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to preventing educator sexual misconduct and abuse of children and youth.

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 268 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after section 21B the following section:-

Section 21C. A person over the age of 21 who is employed by or contracts with a public or private school, the department of youth services, the department of children and families, the department of mental health, the department of developmental services or a private institution that provides services to clients of such departments, such as an administrator, teacher, counselor, coach, bus driver or a person in a similar position of authority in the school, department or institution and, in the course of such employment or contract or as a result thereof, engages in, within or outside of the school, department or institution, sexual relations with a person who is: (i) under the age of 19, has not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution; or (ii) under the age of 22, has special needs under chapter 71B, has

not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution, shall have a cause of action against such an employee or contractor, under chapter 260, section 4C. In a civil action commenced under said section, a person served by such school, department or institution shall be deemed incapable of consent to sexual relations with such an employee or contractor.

SECTION 2. Said chapter 268 is hereby amended by inserting after section 21A the following section:-

Section 21B. A person over the age of 21 who is employed by or contracts with a public or private school, the department of youth services, the department of children and families, the department of mental health, the department of developmental services or a private institution that provides services to clients of such departments, such as an administrator, teacher, counselor, coach, bus driver, or a person in a position of authority in the school, department or institution and, in the course of such employment or contract or as a result thereof, engages in, within or outside of the school, department or institution, sexual relations with a person who is: (i) under the age of 19, has not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution; or (ii) under the age of 22, has special needs under chapter 71B, has not received a high school diploma, general educational development certificate or equivalent document and is served by the school, department or institution, shall be punished by imprisonment in a state prison for not more than 5 years or in a jail or house of corrections for not more than 2½ years, by a fine of $10,000 or by both such fine and imprisonment. Registration as a sex offender shall be required. In the case of a teacher or other licensed professional, revocation of the teaching certificate or professional license shall also be required. In a prosecution commenced under this section, an

individual served by such a school, department or institution shall be deemed incapable of consent to sexual relations with the person.