

HOUSE No. 597

The Commonwealth of Massachusetts

PRESENTED BY:

Steven Ultrino and 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 remedy disparities in students' educational achievement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/20/2023</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>1/20/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/27/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/24/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/27/2023</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>3/2/2023</i>
<i>Lindsay N. Sadosa</i>	<i>1st Hampshire</i>	<i>3/6/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>3/8/2023</i>

HOUSE No. 597

By Representatives Ultrino of Malden and Meschino of Hull, a petition (accompanied by bill, House, No. 597) of Steven Ultrino, Joan Meschino and others relative to educational achievement disparities of students. Education.

The Commonwealth of Massachusetts

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

An Act to remedy disparities in students' educational achievement.

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 2020 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 “a device as defined as section 10 of chapter 269 of the General Laws or a controlled
6 substance as defined in chapter ninety-four C, including, but not limited to, cocaine, and heroin,
7 but not including marijuana, may be subject to exclusion from the school or school district by the
8 principal.”

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

12 SECTION 3. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,
13 is hereby further amended by striking out the words “have a substantial detrimental effect on the
14 general welfare of the school”, in lines 9 and 10, and inserting in place thereof the following
15 words:- pose a specific, documentable concern about the infliction of serious bodily injury upon
16 another person while in school.

17 SECTION 4. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,
18 is hereby further amended by striking out, in lines 10 to 12, inclusive, the sentence, “The student
19 shall receive written notification of the charges and the reasons for such suspension prior to such
20 suspension taking effect” and inserting in place thereof the following two sentences:-

21 The student shall receive written notification of the charges and the right to a hearing
22 before the principal. If, after the hearing, the principal chooses to suspend the student, the written
23 notice of the suspension shall include the reasons for such suspension, including the basis for the
24 principal’s determination of the infliction of serious bodily injury upon another person while in
25 school, prior to such suspension taking effect. Further, any student who is placed on diversion
26 prior to arraignment is not eligible for suspension under this section.

27 SECTION 5. Paragraph (2) of said section 37H½ of said chapter 71, as so appearing, is
28 hereby amended by striking out the first paragraph and inserting in place thereof the following
29 three paragraphs:-

30 Upon a student being convicted of a or upon an adjudication or admission in court of
31 guilt with respect to such a felony or felony delinquency, the principal of a school in which the
32 student is enrolled may expel said student if such principal determines that the student's
33 continued presence in school would pose a specific, documentable concern about the infliction of

34 serious bodily injury upon another person while in school. The student shall receive written
35 notification of the charges and right to a hearing before the principal. If after the hearing, the
36 principal chooses to suspend or expel the student, the written notice shall include the reasons for
37 such exclusion, including the basis for the principal's specific, documentable concern about the
38 infliction of serious bodily injury upon another person while in school, prior to such expulsion
39 taking effect. The student shall also receive written notification of his right to appeal and the
40 process for appealing such expulsion; provided, however, that the expulsion shall remain in
41 effect prior to any appeal hearing conducted by the superintendent.

42 For any suspension or expulsion under this section, the principal of a school in which the
43 student is enrolled shall provide, to the student and to the parent or guardian of the student,
44 notice of the charges and the reason for the suspension or expulsion in English and in the
45 primary language spoken in the home of the student. The student shall receive the written
46 notification and shall have the opportunity to meet for a fair hearing before the principal to
47 discuss the charges and reasons for the suspension or expulsion prior to the suspension or
48 expulsion taking effect. The notice shall include the right to be represented by a lawyer or
49 advocate (at the student's expense); adequate time to prepare for the hearing; access to
50 documented evidence prior to the hearing; the right to present witnesses at the hearing and to
51 question them and a reasonably prompt written decision including specific grounds for the
52 decision.

53 The principal shall ensure that the parent or guardian of the student is included in the
54 hearing, provided that such hearing may take place without the parent or guardian only if the
55 principal, or a designee, can document reasonable efforts to include the parent or guardian in that
56 hearing. The department shall promulgate rules and regulations that address a principal's duties

57 under this subsection and procedures for including parents in student exclusion meetings,
58 hearings or interviews under this subsection.

59 SECTION 6. Section 1S of chapter 69 of the General Laws, added by section 5 of chapter
60 132 of the acts of 2019, is hereby amended by striking out paragraphs (a) and (b) and inserting in
61 place thereof the following 2 paragraphs:-

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

67 (b) Each district shall establish targets for addressing persistent disparities in achievement
68 and suspension and expulsion among student subgroups consistent with the targets established by
69 the department. Each district shall develop an evidence-based 3-year plan to meet its targets.
70 Each district's plan shall be developed by the superintendent in consultation with the school
71 committee and shall consider input and recommendations from parents and other relevant
72 community stakeholders, including but not limited to, special education and English learner
73 parent advisory councils, school improvement councils and educators in the school district.

74 SECTION 7. Paragraph (c) of said section 1S of said chapter 69, as so appearing, is
75 hereby amended by striking out clauses (ii) and (iii) and inserting in place thereof the following 2
76 clauses:-

77 (ii) a description of the evidence-based programs, supports and interventions that the
78 school district will implement to address persistent disparities in achievement and suspension

79 and expulsion among student subgroups, including, but not limited to: (A) expanded learning
80 time in the form of a longer school day or school year; (B) increased opportunity for common
81 planning time for teachers; (C) social services to support students' social-emotional and physical
82 health; (D) hiring school personnel that best support improved student performance; (E)
83 increased or improved professional development; (F) purchase of curriculum materials and
84 equipment that are aligned with the statewide curriculum frameworks; (G) expanding early
85 education and pre-kindergarten programming within the district in consultation or in partnership
86 with community-based organizations; (H) diversifying the educator and administrator workforce;
87 (I) developing additional pathways to strengthen college and career readiness; (J) implementing
88 evidence-based disciplinary and educational models to reduce suspension and expulsion rates,
89 disparities in suspension and expulsion rates between any subgroup and all students and
90 disparities in annual days of exclusion for excluded students in each subgroup, calculated as the
91 days lost per 100 enrolled. This rate of lost instruction is to be compared to all excluded students
92 including, but not limited to: positive behavioral interventions and supports models; response to
93 intervention models; restorative justice models; and trauma sensitive learning models; (K)
94 implementing intermediary disciplinary steps before the use of suspension or expulsion
95 including, but not limited to: mediation, conflict resolution, restorative justice, or collaborative
96 problem solving; and (L) any other program determined to be evidence-based by the
97 commissioner; provided, however, that if a district elects not to implement the evidence-based
98 programs described in clauses (A) to (L), inclusive, the district plan shall specify the reasons for
99 electing not to implement said programs including a description of why said programs would not
100 effectively address persistent disparities in achievement and suspensions and expulsions among
101 student subgroups;

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

110 SECTION 8. Said section 1S of said chapter 69, as so appearing, is hereby further
111 amended by striking out paragraphs (d) and (e) and inserting in place thereof the following 2
112 paragraphs:-

113 (d) Each district shall submit its plan to the department every 3 years. Upon receipt of a
114 district plan, the commissioner shall review the plan to ensure that it sets forth clear, appropriate
115 and achievable goals and measurable standards for student improvement that comply with the
116 requirements of this section; provided, however, that the district shall amend any plan deemed
117 not to conform with the requirements of this section. Following the submission of a 3-year plan,
118 each district shall annually, not later than April 1, submit to the department and to the public: (i)
119 relevant data, pursuant to its plan, to assess success in addressing persistent disparities in
120 achievement and suspension and expulsion among student subgroups; and (ii) amendments to the
121 plan that reflect changes deemed necessary to improve district performance in meeting plan
122 goals. Each plan shall be made publicly available on both the submitting district's website and
123 the department's website.

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

130 SECTION 9. Section 37H of chapter 71 of the General Laws, as appearing in the 2020
131 Official Edition, is hereby amended by inserting before the first paragraph the following
132 definitions:-

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

135 "Disparate rate of lost instruction," an aggregate rate of lost instruction per 100 students
136 in a particular subgroup which deviates from the aggregate rate of lost instruction per 100
137 students in a school or district by greater than or equal to 1½ standard deviations;

138 "Disproportionate number of students," a rate of suspension and expulsion per 100
139 students in a specific subgroup in a school or district which deviates from the aggregate rate of
140 suspension and expulsion per 100 students in a school or district, by greater than or equal to 1½
141 standard deviations;

142 "Expulsion," the removal of a student from the school premises, regular classroom
143 activities and school activities for more than 90 school days, indefinitely or permanently, as
144 permitted pursuant to this section or section 37H½;

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

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

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

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

157 SECTION 10. Clause (f) of said fourth paragraph of said section 37H of said chapter 71,
158 as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof
159 the following sentence:-

160 This report shall include district level data disaggregated and cross-tabulated by student
161 status and categories established by the commissioner including, but not limited to: (a) race and
162 ethnicity; (b) gender; (c) socioeconomic status; (d) English language learner status; (e) disability;
163 (f) homeless children and youths.

164 SECTION 11. Said fourth paragraph of said section 37H of said chapter 71, as so
165 appearing, is hereby further amended by striking out clause (g) and inserting in place thereof the
166 following 2 clauses:-

167 (g) Under the regulations promulgated by the department, for each school that: (a)
168 suspends or expels a significant number of students for more than 10 cumulative days in a school
169 year; (b) suspends or expels a disproportionate number of students from any of the subgroups
170 named in paragraph (f) or designated by the commissioner; or (c) displays disparate rates of lost
171 instruction between subgroups, the commissioner shall investigate and shall recommend models
172 that incorporate intermediary steps prior to the use of suspension or expulsion and address
173 disproportionate discipline, in both incidence and duration, of any subgroup. The commissioner
174 shall publicly identify and categorize schools that fall into 1 or more of the following categories:
175 (a) the school has suspended or expelled a significant number of students for more than 10 days;
176 (b) the school has suspended or expelled a disproportionate number of students from any of the
177 subgroups named in paragraph (f) or designated by the commissioner; or (c) the school has
178 displayed disparate rates of lost instruction for any subgroup. The results of this analysis shall be
179 made publicly available on both the district's website and the department's website.

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

183 SECTION 12. Subsection (a) of section 37H $\frac{3}{4}$ of said chapter 71, as so appearing, is
184 hereby amended by striking out, in lines 1-2, the words "and expulsion".

185 SECTION 13. Subsection (c) of section 37H³/₄ of said chapter 71, as so appearing, is
186 hereby amended by striking out, in line 11, the words “or expulsion”.

187 SECTION 14. Subsection (c) of section 37H³/₄ of said chapter 71, as so appearing, is
188 hereby amended by striking out, in line 15, the words “or expulsion”.

189 SECTION 15. Subsection (c) of section 37H³/₄ of said chapter 71, as so appearing, is
190 hereby amended by striking out, in line 19, the words “or expulsion”.

191 SECTION 16. Subsection (d) of section 37H³/₄ of said chapter 71, as so appearing, is
192 hereby amended by striking out, in line 31, the words “or expulsion”.

193 SECTION 17. Subsection (d) of section 37H³/₄ of said chapter 71, as so appearing, is
194 hereby amended by striking out, in line 36, the words “or expulsion”.

195 SECTION 18. Subsection (d) of section 37H³/₄ of said chapter 71, as so appearing, is
196 hereby amended by striking out, in line 38, the words “or expulsion”.

197 SECTION 19. Subsection (d) of section 37H³/₄ of said chapter 71, as so appearing, is
198 hereby amended by striking out, in line 40, the words “or expulsion”.

199 SECTION 20. Subsection (e) of section 37H³/₄ of said chapter 71, as so appearing, is
200 hereby amended by striking out, in line 53, the words “or expulsion”.

201 SECTION 21. Subsection (e) of section 37H³/₄ of said chapter 71, as so appearing, is
202 hereby amended by striking out, in line 57, the words “or expulsion”.

203 SECTION 22. Subsection (e) of section 37H³/₄ of said chapter 71, as so appearing, is
204 hereby amended by striking out, in lines 72-73, the words “or expulsion”.

205 SECTION 23. Subsection (f) of section 37H³/₄ of said chapter 71, as so appearing, is
206 hereby amended by striking out, in line 74, the words “or expelled”.

207 SECTION 24. Section 37H³/₄ of said chapter 71, as so appearing, is hereby amended by
208 inserting the following sentence at the end of the sixth paragraph:- No long-term suspension shall
209 extend beyond the end of the school year in which such suspension is imposed.