SENATE DOCKET, NO. 253 FILED ON: 1/12/2023

SENATE . . . . . No. 1036

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 sexual assaults by adults in positions of authority or trust.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Joan B. Lovely	*Second Essex*	
Vanna Howard	*17th Middlesex*	*2/8/2023*
Mark C. Montigny	*Second Bristol and Plymouth*	*7/3/2024*

SENATE DOCKET, NO. 253 FILED ON: 1/12/2023

SENATE . . . . . No. 1036

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1036) of Joan B. Lovely and Vanna Howard for legislation relative to sexual assaults by adults in positions of authority or trust. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1092* OF 2021-2022.]

The Commonwealth of Massachusetts

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

An Act relative to sexual assaults by adults in positions of authority or trust.

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 265 of the General Laws is hereby amended by inserting after section 13B the following section:-

Section 13B1/4. (a) As used in this section, "position of trust, authority or supervision over a child" shall include a teacher, substitute teacher, coach, tutor, special educator, paraprofessional, mentor or other person providing instruction or educational services to a child or children, whether such person is compensated, acting as a volunteer, or employed or contracted in any capacity in private or public schools; or a person who is an instructor, tutor or coach of any athletic, artistic, or academic club, team, institution or organization, or an individual tutor or coach; or a parent, stepparent, adoptive parent, legal guardian, foster parent, or any person with custodial authority or supervision of a child or children; or a babysitter, child

11 care provider, or child care aide, whether such person is compensated or acting as a volunteer; or
12 any other person who because of that person's familial relationship, profession, employment,
13 vocation, avocation or volunteer service has regular direct contact with a child or children.

14 (b) Whoever commits an indecent assault and battery on a child who has attained the age
15 of 14 and is under the age of 18, and who is a mandated reporter as defined in section 21 of
16 chapter 119, or who is in a position of trust, authority or supervision over a child as defined in
17 this section and who commits the indecent assault and battery in the course of acting in that
18 position or at any time thereafter, shall be punished by imprisonment in the state prison for not
19 more than 10 years, or by imprisonment in the house of corrections for not more than 2 ½ years.
20 Prosecutions commenced under this section shall neither be continued without a finding nor
21 placed on file.

22 (c) Whoever commits an indecent assault and battery on a child who is under the age of
23 14, and who is a mandated reporter as defined in section 21 of chapter 119, or who is in a
24 position of trust, authority or supervision over a child as defined in this section, and who
25 commits the indecent assault and battery in the course of acting in that position or at any time
26 thereafter, shall be punished by imprisonment in the state prison for life or for any term of years,
27 but not less than 10 years. The sentence imposed on such person shall not be reduced to less than
28 10 years, or suspended, nor shall any person convicted under this section be eligible for
29 probation, parole, work release, or furlough or receive any deduction from his or her sentence for
30 good conduct until he or she shall have served 10 years of such sentence. Prosecutions
31 commenced under this section shall neither be continued without a finding nor placed on file.

32 In a prosecution under this section, a child under the age of 18 shall be deemed incapable
33 of consenting to any conduct of the defendant for which such defendant is being prosecuted.

34 It shall not be a defense to a prosecution under this section that the position of trust,
35 authority or supervision over a child has ended, if the child is under the age of 18 at the time of
36 the offense.

37 SECTION 2. Section 13B1/2 of said chapter 265 is hereby amended by striking out
38 subsection (b).

39 SECTION 3. Section 23A of said chapter 265 is hereby amended by striking out
40 subsection (c).

41 SECTION 4. Said chapter 265 is hereby further amended by inserting after section 23A
42 the following section:-

43 Section 23A1/2. (a) Whoever unlawfully has sexual intercourse or unnatural sexual
44 intercourse with and abuses a child who has attained the age of 16 and is under the age of 18, and
45 who is a mandated reporter as defined in section 21 of chapter 119, or who is in a position of
46 trust, authority or supervision over a child as defined in section 13B1/4 of chapter 265, and who
47 commits such conduct in the course of acting in that position or at any time thereafter, shall be
48 punished by imprisonment in the state prison for life or for any terms of years or, except as
49 otherwise provided, for any term in a jail or house of correction. A prosecution commenced
50 under this section shall neither be continued without a finding nor placed on file.

51 (b) Whoever unlawfully has sexual intercourse or unnatural sexual intercourse with and
52 abuses a child who is under the age of 16, and who is a mandated reported as defined in section

53 21 of chapter 119, or who is in a position of trust, authority or supervision over a child as defined
54 in section 13B1/4 of chapter 265, and who commits such conduct in the course of acting in that
55 position or at any time thereafter, shall be punished by imprisonment in the state prison for life or
56 for any terms of years, but not less than 10 years. The sentence imposed on such person shall not
57 be reduced to less than 10 years, or suspended, nor shall any person convicted under this section
58 be eligible for probation, parole, work release, or furlough or receive any deduction from his or
59 her sentence for good conduct until he or she shall have served 10 years of such sentence.
60 Prosecutions commenced under this section shall neither be continued without a finding nor
61 placed on file.

62 In a prosecution under this section, a child under the age of 18 shall be deemed incapable
63 of consenting to any conduct of the defendant for which such defendant is being prosecuted.

64 It shall not be a defense to a prosecution under this section that the position of trust,
65 authority or supervision over a child has ended, if the child is under the age of 18 at the time of
66 the offense.

67 SECTION 5. Section 63 of chapter 277 of the General Laws, as appearing in the 2018
68 Official Edition, is hereby amended by inserting after "13B,", in line 2, the following:-
69 "13B1/4,".

70 SECTION 6. Said section 63 of chapter 277 is hereby further amended by inserting after
71 "23A,", in line 3, the following:- "23A1/2,".

72 SECTION 7. Said section 63 of chapter 277 is hereby further amended by inserting after
73 "13B,", in line 16, the following:- "13B1/4,".

74 SECTION 8. Said section 63 of chapter 277 is hereby further amended by inserting after

75 “23A,”, in line 16, the following:- “23A1/2,”.