

**SENATE . . . . . No. 294**

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**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 remedy disparities in students' educational achievement.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/9/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/17/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/23/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>3/21/2023</i>

**SENATE . . . . . No. 294**

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 294) of Patricia D. Jehlen, Sal N. DiDomenico, James B. Eldridge and Rebecca L. Rausch for legislation to promote the education success of court involved children. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 344 OF 2021-2022.]

**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. Section 37H of chapter 71 of the General Laws, as appearing in the 2020  
2   Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof  
3   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 by section  
6   10 of chapter 269 of the General Laws; or a controlled substance as defined in chapter ninety-  
7   four C, including, but not limited to, cocaine and heroin, but not including marijuana, may be  
8   subject to expulsion from the school or school district by the 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” and inserting in place thereof  
11 the following words:- willfully assaults, with intent and means to harm,.

12 SECTION 3. Subsection (c) of said section 37H of chapter 71, as so appearing, is hereby  
13 further amended by striking out subsection (c) and inserting in place thereof the following  
14 subsection:-

15 “(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be  
16 notified in writing in English and in the primary language spoken in the student’s home of the  
17 charge, and right to a hearing prior to any exclusion. The student shall have a right: to  
18 representation, along with adequate time to prepare for the hearing; to access documented  
19 evidence prior to the hearing; to present evidence; to present witnesses for questioning and cross  
20 examination at said hearing before the principal; and to a reasonably prompt written decision  
21 including specific grounds for the decision. The principal or headmaster shall ensure that the  
22 parent or guardian of the student is included in the hearing, provided that such hearing may take  
23 place without the parent or guardian only if the principal or headmaster can document reasonable  
24 efforts to include the parent or guardian in that hearing. The department shall promulgate rules  
25 and regulations that address a principal's duties under this subsection and procedures for  
26 including parents in student exclusion hearings under this subsection.

27 SECTION 4. Said section 37H of chapter 71, as so appearing, is hereby amended by  
28 striking out subsection (d) and inserting in place thereof the following subsection:-

29 “(d) Any student who has been suspended or expelled from a school district pursuant to  
30 these provisions shall have the right to appeal to the superintendent. The superintendent or a

31 designee shall hold a hearing with the student and the parent or guardian of the student within 3  
32 school days of the student's request for an appeal; provided that a student or a parent or guardian  
33 of the student may request and, if so requested, shall be granted an extension of up to 7 calendar  
34 days; provided further, that the superintendent, or a designee, may proceed with a hearing  
35 without a parent or guardian of the student if the superintendent, or a designee, makes a good  
36 faith effort to include the parent or guardian. At the hearing, the student shall have the right to  
37 present oral and written testimony, cross-examine witnesses and shall have the right to counsel.  
38 The superintendent shall render a decision on the appeal in writing within 5 calendar days of the  
39 hearing. That decision shall be the final decision of the school district with regard to the  
40 suspension or expulsion.”

41 SECTION 5. Paragraph (1) of section 37H1/2 of chapter 71, as so appearing, is hereby  
42 amended by striking out in lines 3-5, inclusive, the words, “issuance of a criminal complaint  
43 charging a student with a felony or upon the issuance of a felony delinquency complaint against  
44 a student” and inserting in place thereof the following words:- “arraignment or indictment of a  
45 student for a felony offense”.

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

51 SECTION 7. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,  
52 is hereby further amended by striking out, in lines 10 to 12, inclusive, the sentence, “The student

53 shall receive written notification of the charges and the reasons for such suspension prior to such  
54 suspension taking effect” and inserting in place thereof the following two sentences:-

55           The student shall receive written notification of the charges and the right to a hearing  
56 before the principal. If, after the hearing, the principal chooses to suspend the student, the written  
57 notice of the suspension shall include the reasons for such suspension, including the basis for the  
58 principal’s determination of the documentable concern about the infliction of serious bodily  
59 injury upon another person while in school, prior to such suspension taking effect.

60           SECTION 8. Paragraph (2) of said section 37H½ of said chapter 71, as so appearing, is  
61 hereby amended by striking out the first paragraph and inserting in place thereof the following  
62 three paragraphs:-

63           Upon a student being convicted of a or upon an adjudication or admission in court of  
64 guilt with respect to such a felony or felony delinquency, the principal or headmaster of a school  
65 in which the student is enrolled may expel said student if such principal or headmaster  
66 determines that the student's continued presence in school would pose a specific, documentable  
67 concern about the infliction of serious bodily injury upon another person while in school. The  
68 student shall receive written notification of the charges and right to a hearing before the  
69 principal. If after the hearing, the principal chooses to suspend or expel the student, the written  
70 notice shall include the reasons for such exclusion, including the basis for the principal’s  
71 specific, documentable concern about the student’s continued presence in school, prior to such  
72 expulsion taking effect. The student shall also receive written notification of his right to appeal  
73 and the process for appealing such expulsion; provided, however, that the expulsion shall remain  
74 in effect prior to any appeal hearing conducted by the superintendent.

75 For any suspension or expulsion under this section, the principal or headmaster of a  
76 school in which the student is enrolled shall provide, to the student and to the parent or guardian  
77 of the student, notice of the charges and the reason for the suspension or expulsion in English  
78 and in the primary language spoken in the home of the student. The student shall receive the  
79 written notification and shall have the opportunity to meet for a fair hearing before the principal  
80 or headmaster to discuss the charges and reasons for the suspension or expulsion prior to the  
81 suspension or expulsion taking effect. The notice shall include the right to be represented by a  
82 lawyer or advocate (at the student's expense); adequate time to prepare for the hearing; access to  
83 documented evidence prior to the hearing; the right to present witnesses at the hearing and to  
84 question them; and a reasonably prompt written decision including specific grounds for the  
85 decision.

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

92 SECTION 9. Section 37H½ of chapter 71, as so appearing, is hereby amended by  
93 inserting, in line 44, after the word “expulsion”, the following:- “or suspension”.

94 SECTION 10. Said section 37H½ of chapter 71, as so appearing, is hereby amended by  
95 inserting, in line 47, after the word “expulsion”, the following:- “or suspension”.

96           SECTION 11. Said section 37H½ of chapter 71, as so appearing, is hereby amended by  
97 inserting, in line 49, after the word “expulsion”, the following:- “or suspension”.

98           SECTION 12. Said section 37H½ of chapter 71, as so appearing, is hereby amended by  
99 inserting, in line 57, after the word “expulsion”, the following:- “or suspension”.