

HOUSE No. 4538

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, September 25, 2025.

The committee on the Judiciary, to whom were referred the petition (accompanied by bill, House, No. 573) of Carole A. Fiola and others that the Department of Elementary and Secondary Education be authorized to adopt an abuse prevention policy; the petition (accompanied by bill, House, No. 1634) of Leigh Davis and others for legislation relative to sexual assaults by adults in positions of authority or trust; the petition (accompanied by bill, House, No. 1733) of Kenneth I. Gordon and Natalie M. Blais relative to the age of consent in certain criminal prosecutions and civil actions for sexual assault and rape of a child; the petition (accompanied by bill, House, No. 1734) of Kenneth I. Gordon and Natalie M. Blais relative to preventing educator sexual misconduct and abuse of children and youth; and the petition (accompanied by bill, House, No. 1832) of John J. Lawn, Jr., and Natalie M. Blais relative to preventing the sexual abuse of children and youth, reports recommending that the accompanying bill (House, No. 4538) ought to be pass.

For the committee,

MICHAEL S. DAY.

HOUSE No. 4538

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

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:

1 SECTION 1. Chapter 69 of the General Laws is hereby amended by inserting after
2 section 39 the following 4 sections:-

3 Section 40. (a) As used in sections 41, 42 and 43, the following terms shall have the
4 following definitions:

5 “Abuse”, an act against a student which: (i) attempts to cause or causes physical harm to
6 the student; (ii) places the student in fear of imminent serious harm; or (iii) causes the student to
7 engage involuntarily in sexual relations by force, threat or duress.

8 “Abuse prevention policy”, a formal framework adopted by a school to protect students
9 from abuse and sexual misconduct and promote a healthy, safe and respectful school
10 environment.

11 “Employee”, an individual who performs any service, with or without compensation,
12 including but not limited to volunteers, substitute employees and employees hired through a
13 contracted service provider.

14 “Position”, any role at the school including, but not limited to, a teacher, administrator,
15 bus driver, custodian, food service worker, crossing guard or sports coach.

16 “School”, an elementary or secondary: (i) public school or public school district
17 including a charter school or virtual school; (ii) private day or residential school, including a
18 private occupational school and a special education school program approved under Chapter
19 71B; and (iii) an independent or parochial school.

20 “Sexual misconduct”, any verbal, nonverbal, written, or electronic communication or any
21 other act directed toward or with a student that is designed to promote a romantic or sexual
22 relationship with the student, including, but not limited to: (i) a sexual or romantic invitation; (ii)
23 dating or soliciting dates; (iii) engaging in sexualized or romantic dialogue; (iv) making sexually
24 suggestive comments; (v) self-disclosure or physical exposure of a sexual, romantic or erotic
25 nature with a student.

26 “Student”, an individual who is enrolled in or receiving instruction from a school,
27 whether on a full- or part-time basis.

28 Section 41. (a) Every school shall adopt an abuse prevention policy as provided by the
29 department of elementary and secondary education which shall outline a code of conduct for
30 employees on how to identify, prevent and report inappropriate behavior including abuse and
31 sexual misconduct and detail the school’s procedures for meeting its obligations under section
32 51A of chapter 119.

33 (b) All mandated reporters, as the term is defined in section 21 of chapter 119, employed
34 by a school shall receive instruction biennially on the abuse prevention policy which will include
35 but not be limited to: (1) recognizing, preventing and responding to behaviors violative of the
36 policy, including between students; (2) identifying the different behavioral and verbal cues for all
37 types of abuse, misconduct and neglect; (3) supporting the health development of students by
38 building protective factors to mitigate against sexual victimization; (4) responding to disclosures
39 of abuse, sexual misconduct or other violations of the policy in a supportive and appropriate
40 manner; and (5) seeking out community resources available to assist schools in the prevention,
41 identification and reporting of abuse or sexual misconduct including referral for treatment.

42 (c) The department, in consultation with the office of the child advocate, the department
43 of children and families and the department of early education and care shall create an abuse
44 prevention policy for schools across the Commonwealth to be updated at least once every 5 years
45 which will use tested, research-based instructional materials that meet the requirements of
46 subsection (b) and may be delivered in-person or online and will be provided without cost to
47 schools and made publicly available on the department's website.

48 (d) Schools shall maintain as records lists of the dates and attendees of these trainings.

49 Section 42. (a) Every school shall utilize a program developed by the department of
50 elementary and secondary education to provide age-appropriate instruction to help students learn
51 how to: (1) recognize and report inappropriate behavior in adults and other children that may
52 indicate that they pose a sexual risk to minors; (2) develop healthy and respectful interpersonal
53 relationships, including body boundaries and privacy rules; (3) communicate effectively to
54 trusted adults any concerns they have about body boundaries or privacy violations; (4) utilize

55 school and community resources to prevent and respond to sexual abuse; and (5) recognize and
56 understand the consequences of false, inaccurate or exaggerated reports and the importance of
57 being honest to the best of their ability.

58 (b) The department shall use tested, research-based instructional materials that meet the
59 requirements of subsection (a) to assist schools in implementing their program.

60 (c) Schools shall maintain as records lists of the dates and attendees of these instructional
61 sessions.

62 Section 43. (a) A school shall, before offering a position to an applicant which may
63 involve direct and unmonitored contact with students require the applicant to provide:

64 (1) A list, including name, address, telephone number and other relevant contact
65 information of the applicant, and the applicant's current employer and all former employers that
66 were schools or where the applicant was in a position that involved direct and unmonitored
67 contact with students;

68 (2) A written authorization that consents to and authorizes disclosure by the applicant's
69 current and former employers;

70 (3) A written sworn statement on whether the applicant:

71 (i) has been the subject of an abuse or sexual misconduct investigation by any employer,
72 licensing body, law enforcement agency or child protective services agency unless the result of
73 the investigation was a finding that the allegations were false, unsubstantiated or inconclusive,
74 including a future acquittal or exoneration.

75 (ii) has been disciplined, discharged, non-renewed, asked to resign from any position,
76 resigned from or otherwise separated from any position while allegations of abuse or sexual
77 misconduct were pending or under investigation, unless the result of the investigation was a
78 finding that the allegations were false, unsubstantiated or inconclusive, including a future
79 acquittal or exoneration; or

80 (iii) has ever had a professional license or certificate suspended, surrendered or revoked
81 while allegations of abuse or sexual misconduct were pending or under investigation, unless the
82 result of the investigation was a finding that the allegations were false, unsubstantiated or
83 inconclusive, including a future acquittal or exoneration.

84 (b) A school shall, before offering a position to an applicant involving direct and
85 unmonitored contact with children, conduct a review of the employment history of the applicant
86 by contacting all current and former employers listed by the applicant in subsection (a) within 30
87 days of receiving the application and requesting the following information:

88 (1) The applicant's dates of employment;

89 (2) A sworn statement as to whether they have any knowledge or information leading
90 them to believe that the applicant:

91 (i) was the subject of an abuse or sexual misconduct investigation by any employer,
92 licensing agency, law enforcement agency or child protective services agency unless the result of
93 the investigation was a finding that the allegations were false, unsubstantiated or inconclusive,
94 including a future acquittal or exoneration;

95 (ii) was disciplined, discharged, non-renewed, asked to resign from any position, resigned
96 from or otherwise separated from any position while allegations of abuse or sexual misconduct
97 were pending or under investigation, unless the result of the investigation was a finding that the
98 allegations were false, unsubstantiated or inconclusive, including a future acquittal or
99 exoneration; or

100 (iii) has ever had a license, professional license or certificate suspended, surrendered or
101 revoked while allegations of abuse or sexual misconduct were pending or under investigation,
102 unless the result of the investigation was a finding that the allegations were false, unsubstantiated
103 or inconclusive, including a future acquittal or exoneration.

104 (c) An applicant who provides false information or willfully fails to disclose such
105 information as required in this section shall be subject to discipline up to, and including,
106 termination or denial of any position and may be subject to professional discipline.

107 (d) The applicant's current or former employer contacted by a school pursuant to a
108 request under subsection (b) must, no later than 30 days after receiving the request, disclose the
109 information requested to the school with the personally identifiable information of any victim
110 redacted excepting their age and other information material to any investigation into misconduct.

111 (e) The school may request additional material information about matters disclosed
112 pursuant to this section and the applicant shall provide additional written authorization
113 consenting to the disclosure. Current and former employers shall be subject to the time
114 requirements in subsection (d) if they receive a request to provide additional material
115 information.

116 (f) Information reported or disclosed under this section shall not be considered a public
117 record or confidential pursuant to section 10 of chapter 66 or the twenty-sixth clause of section 7
118 of chapter 4. A school that receives information under this section shall use the information
119 solely for the purpose of evaluating an applicant's fitness for a position or for continuing at the
120 school. The school may disseminate this information to: (1) another school to determine the
121 suitability of the applicant; and (2) the department of elementary and secondary education to
122 determine the suitability of applicants for licenses who may have direct and unmonitored contact
123 with children

124 (g) A school may offer a position to an applicant on a provisional basis for no more than
125 90 days pending the school's review of the information and records received under this section,
126 if: (1) the applicant has provided all the information and supporting documentation required
127 including the sworn statement required by subsection (a); (2) the school has no knowledge of
128 information disqualifying the applicant from the position; and (3) the applicant is not permitted
129 to work alone with children.

130 (h) A school may not offer a position to a substitute employee or to an employee through
131 a contracted service provider without meeting the requirements under this section; provided,
132 however, that no additional investigation is required if the substitute or contracted employee
133 continues in the position at the school or remains on the school's approved list.

134 (i) The decision of any employer to disclose records under this section, when made in
135 good faith, shall not be the basis for any civil or criminal liability unless the employer discloses
136 records knowing or having reason to know they contain false or misleading information, or the
137 disclosure constituted grossly negligent conduct.

138 (j) Unless prohibited by a jurisdiction outside the Commonwealth or restricted by a prior
139 contract, the willful failure of a former employer to respond or provide the information and
140 records requested under this section shall be promptly reported to the relevant licensing board
141 and the Office of the Attorney General and may result in civil penalties.

142 (k) This section shall not be construed to prevent a school from conducting further
143 investigations or requiring additional documentation of applicants.

144 (l) The board of elementary and secondary education shall: (1) provide information to
145 each school concerning the provisions of this section; (2) develop standardized forms for
146 applicants, schools and employers that comply with the requirements of this section; (3)
147 promulgate regulations necessary to carry out this section.

148 SECTION 2. Chapter 265 of the General Laws is hereby amended by inserting after
149 section 26D the following section:-

150 Section 26E.

151 (a) As used in this section, the following terms shall have the following definitions:

152 “Abuse”, an act against a student which: (i) attempts to cause or causes physical harm to
153 the student; (ii) places the student in fear of imminent serious harm; or (iii) causes the student to
154 engage involuntarily in sexual relations by force, threat or duress.

155 “Employee”, an individual who performs any service, with or without compensation,
156 including but not limited to volunteers, substitute employees and employees hired through a
157 contracted service provider.

158 “Person in position of authority or trust”, a person who has a position at a school, whether
159 paid or unpaid, and by their role, status or relationship, possesses influence, power to control or a
160 duty to care for a student.

161 “Position”, any role at the school including, but not limited to, a teacher, administrator,
162 bus driver, custodian, food service worker, crossing guard or sports coach.

163 “School”, an elementary or secondary: (i) public school or public school district
164 including a charter school or virtual school; (ii) private day or residential school, including a
165 private occupational school and a special education school program approved under Chapter
166 71B; and (iii) an independent or parochial school.

167 “Sexual misconduct”, any verbal, nonverbal, written, or electronic communication, or
168 any other act directed toward or with a student that is designed to promote a romantic or sexual
169 relationship with the student, including, but not limited to: (i) a sexual or romantic invitation; (ii)
170 dating or soliciting dates; (iii) engaging in sexualized or romantic dialogue; (iv) making sexually
171 suggestive comments; (v) self-disclosure or physical exposure of a sexual, romantic or erotic
172 nature with a student.

173 “Student”, any person enrolled at a school on a full- or part-time basis.

174 (b) Whoever, being over the age of 21 and in a position at a school of authority or trust
175 over a student who has reached the age of 16, entices, as defined in section 26D, that student to
176 engage in sexual activity or contact through abuse or sexual misconduct shall be punished by
177 incarceration in a state prison for not more than 5 years or in a house of correction for not more
178 than 2½ years or by a fine of not more than \$10,000, or by both such fine and incarceration. A
179 conviction under this section shall result in the automatic suspension of any professional license

180 issued by the Commonwealth. In a prosecution under this section, the student shall be deemed
181 incapable of consent with a person in a position of authority or trust over the student.

182 (c) Whoever, being over the age of 21 and in a position at a school of authority or trust
183 over a student who is under the age of 16, entices, as defined in section 26D, that student to
184 engage in sexual activity or contact through abuse or sexual misconduct shall be punished by
185 incarceration in a state prison for not more than 5 years or in a house of correction for not more
186 than 2 ½ years or by a fine or not more than \$10,000, or by both such fine and incarceration. A
187 conviction under this section shall result in the automatic suspension of any professional license
188 issued by the Commonwealth. In a prosecution under this section, the student shall be deemed
189 incapable of consent with a person in a position of authority or trust over the student.

190 SECTION 3. Section 178C of chapter 6 of the General Laws, as so appearing, is hereby
191 amended by inserting, in line 77, after the number “265;” the following words:- enticing a
192 student to engage in sexual activity under section 26E of said chapter 265;.

193 SECTION 4. Section 4C of chapter 260 of the General Laws, as so appearing, is hereby
194 amended by inserting, in line 12, after the number “24B” the following number:- 26E,.

195 SECTION 5. Section 13L of chapter 265 of the General Laws, as so appearing, is hereby
196 amended by inserting, in line 16, after the number “265” the following words:- enticing a student
197 to engage in sexual activity under section 26E of said chapter 265.

198 SECTION 6. Section 26C of said chapter 265 is hereby amended by striking out, in line
199 7, the words “or 24B” and inserting in place thereof the following words:- , 24B and subsection
200 (c) of 26E.

201 SECTION 7. Section 63 of chapter 277 of the General Laws, as so appearing, is hereby
202 amended by inserting, in line 4, as amended by sections 9 and 10 of chapter 277 of the Acts of
203 2024 after the number “24B” the following number:- , 26E.