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.

FILED ON: 9/15/2025

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The applicant's dates of employment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 26E.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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