

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Natalie M. Blais

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 establishing employee screening requirements in schools to prevent child sexual abuse.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>1/17/2025</i>

HOUSE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 434 OF 2023-2024.]

The Commonwealth of Massachusetts

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

An Act establishing employee screening requirements in schools to prevent child sexual abuse.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 71 of the General Laws, as appearing in the 2022 Official Edition, is hereby
2 amended by inserting after Section 38R the following new section:-

3 Section 38R1/2. Screening of prospective school employees for prior investigations into
4 child abuse or sexual misconduct.

5 For the purposes of this section, the following definitions shall apply:-

6 “Child abuse”, the non-accidental commission of any act by a caregiver which causes or
7 creates a substantial risk of physical or emotional injury or sexual abuse of a child or student; or
8 the victimization of a child or student through sexual exploitation, regardless if the person
9 responsible is a caretaker.

10 “Sexual misconduct”, any verbal, nonverbal, written, or electronic communication, or
11 any other act directed toward or with a student that is designed to establish a sexual relationship
12 with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual
13 dialogue, making sexually suggestive comments, self-disclosure or physical exposure of a sexual
14 or erotic nature, and any other sexual, indecent or erotic contact with a student.

15 (a) A school district, charter school, nonpublic school, or contracted service provider
16 holding a contract with a school district, charter school, or nonpublic school may not offer
17 employment to an applicant who would be employed by or work in a school in a position which
18 involves direct or regular contact with students, unless the school district, charter school,
19 nonpublic school, or contracted service provider requires the applicant to provide: (1) A list,
20 including name, address, telephone number and other relevant contact

21 information of the applicant, including: (i) Current employer; (ii) All former employers
22 that were school entities;

23 (iii) All former employers if the applicant was employed in positions that involved direct
24 contact with children.

25 (2) A written authorization that consents to and authorizes disclosure by the applicant's
26 current and former employers. (3) A written statement of whether the applicant: (i) has been the
27 subject of (A) an abuse or sexual misconduct investigation by any employer, State licensing
28 agency, law enforcement agency, unless the investigation resulted in a finding that the
29 allegations were false or inconclusive; or (B) an investigation of abuse under section 51A of
30 chapter 119 in which the allegations of abuse against the applicant were substantiated by the
31 department of children and families and not subsequently unsubstantiated or overturned on

32 appeal; (ii) has ever been disciplined, discharged, non-renewed, asked to resign from
33 employment, resigned from or otherwise separated from any employment (A) while allegations
34 of abuse or sexual misconduct were pending or under investigation, unless the investigation
35 resulted in a finding that the allegations were false or inconclusive, or in the case of section 51A
36 of chapter 119, unsubstantiated; or (B) due to an adjudication or findings of abuse or sexual
37 misconduct.; or (iii) has ever had a license, professional license or certificate suspended,
38 surrendered or revoked (A) while allegations of abuse or sexual misconduct were pending or
39 under investigation, unless the investigation resulted in a finding that the allegations were false
40 or inconclusive, or in the case of section 51A of chapter 119, unsubstantiated; or (B) due to
41 adjudicated findings of abuse or sexual misconduct.

42 (b) Before a school or contracted service provider may offer employment to an applicant
43 who would be employed by or work in a school in a position involving direct or regular contact
44 with children, the school or contracted service provider shall conduct a review of the
45 employment history of the applicant by contacting those employers listed by the applicant and
46 requesting the following information: (1) The dates of employment of the applicant. (2) A
47 statement as to whether the applicant: (i) was the subject of (A) an abuse or sexual misconduct
48 investigation by any employer, State licensing agency, law enforcement agency, unless such
49 investigation resulted in a finding that the allegations were false or inconclusive; or (B) an
50 investigation of abuse under section 51A of chapter 119 in which the allegations of abuse against
51 the applicant were substantiated by the department of children and families and not subsequently
52 unsubstantiated or overturned on appeal; (ii) was disciplined, discharged, non-renewed, asked to
53 resign from employment, resigned from or otherwise separated from any employment (A) while
54 allegations of abuse or sexual misconduct were pending or under investigation, unless the

55 investigation resulted in a finding that the allegations were false or inconclusive or, in the case of
56 section 51A of chapter 119, unsubstantiated; or (B) due to an adjudication or findings of abuse or
57 sexual misconduct; or (iii) has ever had a license, professional license or certificate suspended,
58 surrendered or revoked while allegations of abuse or sexual misconduct were pending or under
59 investigation, or due to adjudicated findings of abuse or sexual misconduct.

60 (c) Before a school or contracted service provider may offer employment to an applicant
61 who would be employed by or in a school entity in a position involving regular contact with
62 children, the school entity or contracted service provider shall check the eligibility for
63 employment or certification status of the applicant to determine whether the applicant holds valid
64 and active certification appropriate for the position and is otherwise eligible for employment and
65 whether the applicant has been the subject of professional discipline.

66 (d) Before a school or contracted service provider may offer employment to an applicant
67 who would be employed by or in a school entity in a position involving regular contact with
68 children, the school entity or contracted service provider shall check the Central Registry of the
69 department of children and families. A substantiated finding of physical or sexual abuse of a
70 child shall disqualify that applicant from employment.

71 (e) An applicant who provides false information or willfully fails to disclose material
72 required information shall be subject to discipline up to, and including, termination or denial of
73 employment and may be subject to professional discipline.

74 (f) No later than 120 days after receiving a request for information under subsection (b),
75 an employer that has or had an employment relationship with the applicant shall disclose the

76 information requested. The employer shall disclose the information on a standardized form
77 developed by the department of elementary and secondary education.

78 (g)(1) After reviewing the information initially disclosed under subsection (a)(2) and
79 finding an affirmative response to subsection (a)(2)(i), (ii) or (iii), or disclosed under section (b)
80 and finding an affirmative response to subsection (b)(2)(i), (ii) or (iii), where the prospective
81 employing school or contractor makes a determination to consider the applicant for employment,
82 the school or contractor shall request that former employers provide any additional material
83 information about the matters disclosed. The applicant shall provide written authorization that
84 consents to and authorizes disclosure by the applicant's current and former employers of said
85 additional material information. (2) Former employers shall provide the additional information
86 requested no later than 90 days after the prospective employer's request under this paragraph. (3)
87 Information received under this section shall not be deemed a public record for the purposes of
88 section 10 of chapter 66. (4) A school that receives the information under this subsection shall
89 use the information solely for the purpose of evaluating an applicant's fitness to be hired or for
90 continued employment.

91 (h) A school or independent contractor may hire an applicant on a provisional basis for
92 no more than 90 days pending the school entity's or independent contractor's review of
93 information and records received under this section, provided that all of the following are
94 satisfied:

95 (1) the applicant has provided all of the information and supporting documentation
96 required; (2) the school administrator has no knowledge of information pertaining to the

97 applicant that would disqualify the applicant from employment; and (3) the applicant swears or
98 affirms that the applicant is not disqualified from employment.

99 (i) A school or contractor may not enter into a collective bargaining agreement, an
100 employment contract, an agreement for resignation or termination, a severance agreement or any
101 other contract or agreement or take any action that interferes with the operation of section 51A of
102 chapter 119 or appropriate criminal authority. Any provision of an employment contract or
103 agreement for resignation or termination or a severance agreement that is executed, amended or
104 entered into after the effective date of this section and that is contrary to this section shall be
105 void. (1) Any individual who is a school employee, contractor, or agent, or any State educational
106 agency or local educational agency, shall be prohibited from assisting a school employee,
107 contractor, or agent in obtaining a new job in another educational agency or school, apart from
108 the routine transmission of administrative and personnel files, if the individual or agency knows,
109 or has probable cause to believe, that such school employee, contractor, or agent engaged in
110 sexual misconduct regarding a minor or student in violation of the law. (2) The requirements of
111 subsection (a) shall not apply if the information

112 giving rise to probable cause if : (i) there has been properly reported to a law enforcement
113 agency with jurisdiction over the alleged misconduct; and has been properly reported to any
114 other authorities as required by Federal, State, or local law, including title IX of the Education
115 Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under
116 part 106 of title 34, Code of Federal Regulations, or any succeeding regulations; and (ii) the
117 matter has been officially closed or the prosecutor or police with jurisdiction over the alleged
118 misconduct has investigated the allegations and notified school officials that there is insufficient
119 information to establish probable cause that the school employee, contractor, or agent engaged in

120 sexual misconduct regarding a minor or student in violation of the law; (iii) the school employee,
121 contractor, or agent has been charged with, and acquitted or otherwise exonerated of the alleged
122 misconduct; or (iv) the case or investigation remains open and there have been no charges filed
123 against, or indictment of, the school employee, contractor, or agent within 4 years of the date on
124 which the information was reported to a law enforcement agency.

125 (v)(A) For substitute employees, the employment history review required by this section
126 shall be required only prior to the initial hiring of a substitute or placement on the school entity's
127 approved substitute list and shall remain valid as long as the substitute continues to be employed
128 by the same school entity or remains on the school entity's approved substitute list. (B) A
129 substitute seeking to be added to another school entity's substitute list shall undergo a new
130 employment history review. The appearance of a substitute on one school entity's substitute list
131 does not relieve another school entity from compliance with this section. (C) An employment
132 history review conducted upon initial hiring of a substitute employee by an contracted service
133 provider, intermediate unit or any other entity that furnishes substitute staffing services to school
134 entities shall satisfy the requirements of this section for all school entities using the services of
135 that independent contractor, intermediate unit or other entity. (D) A contracted service provider,
136 intermediate unit or any other entity furnishing substitute staffing services to school entities shall
137 comply with the provisions of this Act. (E) For purposes of this subsection, "substitute
138 employee" shall not mean school bus drivers employed by a contracted service provider.

139 (j)(1) For employees of contracted service providers, the employment history review
140 required by this section shall be performed either at the time of the initial hiring of the employee
141 or prior to the assignment of an existing employee to perform work for a school entity in a
142 position involving regular contact with children. The review shall remain valid as long as the

143 employee remains employed by that same contractor even though assigned to perform work for
144 other school entities. (2) A contracted service provider shall maintain records documenting
145 employment history reviews for all employees as required by this section and, upon request, shall
146 provide a school entity for which an employee is assigned to perform work access to the records
147 pertaining to that employee. (3) Prior to assigning an employee to perform work for a school in a
148 position involving regular contact with children, the contracted service provider shall inform the
149 school of any instance known to the contractor in which the employee: (i) was the subject of any
150 abuse or sexual misconduct investigation by any employer, state licensing agency, law
151 enforcement authority or child protective services agency, unless such investigation resulted in a
152 finding that allegations are false; (ii) has ever been disciplined, discharged, non-renewed,
153 removed from a substitute list, asked to resign from employment, resigned from or otherwise
154 separated from any employment while allegations of abuse or sexual misconduct as described in
155 subparagraph (i) were pending or under investigation, or due to an adjudication or findings of
156 abuse or sexual misconduct; or (iii) has ever had a license, professional license or certificate
157 suspended, surrendered or revoked while allegations of abuse or sexual misconduct were
158 pending or under investigation, or due to an adjudication or findings of abuse or sexual
159 misconduct. (4) The independent contractor may not assign the employee to perform work for
160 the school in a position involving direct contact with children where the school objects to the
161 assignment after being informed of an instance of abuse or sexual misconduct. (5) An applicant
162 who has once undergone the employment history review required and seeks to transfer to or
163 provide services to another school in the same district, diocese or religious judicatory or
164 established and supervised by the same organization shall not be required to obtain additional
165 reports before making such transfer.

166 (k) (1) An employer, school, school administrator or independent contractor who in good
167 faith provides information or records including personnel records about a current or former
168 employee's job performance and professional conduct to a prospective school employer or to the
169 department of elementary and secondary education shall be immune from criminal and civil
170 liability for the disclosure or any consequences of the disclosure, unless the information or
171 records were provided with the knowledge that they were false or misleading. Such immunity
172 shall be in addition to and not in limitation of any other immunity provided by law or any
173 absolute or conditional privileges applicable to such disclosures by virtue of the circumstances or
174 the applicant's consent thereto. (2) Except where the laws of other states prevent the
175 release of the information or records requested, or disclosure is restricted by the terms of a
176 contract entered into prior to the effective date of this section, the willful failure of a former
177 employer, school entity, school administrator or independent contractor to respond or provide the
178 information and records as requested may result in civil penalties, and professional discipline
179 where appropriate. (3) Notwithstanding any provision of law to the contrary, an employer,
180 school, school administrator, independent contractor or applicant shall report and disclose in
181 accordance with this section all relevant information, records and documentation that may
182 otherwise be confidential under section 10 of chapter 66. (4) A school or independent contractor
183 may not hire an applicant who does not provide the information required under subsection (a)(2)
184 for a position involving contact with children. (1) Nothing in this section shall be construed: (1)
185 To prevent a prospective employer from conducting further investigations of prospective
186 employees or from requiring applicants to provide additional background information or
187 authorizations beyond what is required under this section, nor to prevent a former employer from
188 disclosing more information than what is required under this section. (2) To relieve a school,

189 school administrator or independent contractor of its legal responsibility to report suspected
190 incidents of abuse in accordance with the provisions of section 51A of chapter 119 or
191 misconduct by a licensed educator in accordance with the reporting requirements of the
192 department of elementary and secondary education. (3) To relieve a school, school administrator
193 or independent contractor of its legal responsibility to report suspected incidents of professional
194 misconduct in accordance with chapter 119, section 51A or misconduct by a licensed educator in
195 accordance with the reporting requirements of the department of elementary and secondary
196 education. (4) To prohibit the right of the exclusive representative pursuant to chapter 150E to
197 challenge the validity of an employee's termination or discipline under a collective bargaining
198 agreement or any relevant statute

199 (m)(1) The office of the attorney general shall have jurisdiction to determine willful
200 violations of this section and may, following a hearing, assess a civil penalty not to exceed ten
201 thousand dollars. School entities shall be barred from contracting with an independent contractor
202 who is found to have willfully violated the provisions of this section. Willful violations of the
203 provisions of this section shall be reported to the relevant licensing authority. (2)
204 Notwithstanding any other provision of law to the contrary, the department of education shall
205 gather data on all reports of sexual misconduct and sexual abuse of students by school
206 employees, including details of the allegations of sexual misconduct and sexual abuse; name of
207 the school filing the report; whether an investigation was conducted and, if not, reasons why; the
208 outcome of any investigation, including whether a license was temporarily or permanently
209 revoked or whether the employee surrendered their license in lieu of an investigation. These
210 aggregated data will be reported to the legislature on an annual basis and a report made available
211 to the public and to the National Association of State Directors of Teacher Education and

212 Certification Clearinghouse or any national databases serving the same purpose. (3) The
213 department of education shall notify each school district and school about the provisions of this
214 act to ensure applicants and employers are aware of their respective rights and responsibilities
215 under this act. The department shall develop standardized forms for applicants and employers to
216 use to comply with the requirements of subsection (a) of this act, as well as any other
217 informational materials that may assist applicants and employers in the implementation of and
218 compliance with this act. (4) The board of education may promulgate regulations for
219 implementation and enforcement of this chapter. Upon release of the proposed regulations, the
220 board shall file a copy of the regulations with the clerks of the house of representatives and the
221 senate, who shall forward the regulations to the joint committee on education. Within 30 days of
222 the filing, the committee may hold a public hearing and issue a report on the regulations and file
223 the report with the board. The board, pursuant to applicable law, may adopt final regulations
224 making revisions to the proposed regulations as it deems appropriate after consideration of the
225 report and shall file a copy of the final regulations with the chairpersons of the joint committee
226 on education and, not earlier than 30 days after the filing, the board shall file the final regulations
227 with the state secretary. (5) No employer shall be liable for injury, loss of property, personal
228 injury or death caused by an act or omission of a public employee while acting in the scope of
229 the public employee's employment and arising out of the implementation of this chapter. This
230 chapter shall

231 not be construed as creating or imposing a specific duty of care.