

SENATE No. 1166

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 enhancing hiring practices to prevent sexual abuse.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/22/2025</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>3/5/2025</i>
<i>Dylan A. Fernandes</i>	<i>Plymouth and Barnstable</i>	<i>3/27/2025</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>6/30/2025</i>

SENATE No. 1166

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1166) of Joan B. Lovely, Joanne M. Comerford and Susannah M. Whipps for legislation to enhance hiring practices at schools to prevent sexual abuse. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1040 OF 2023-2024.]

The Commonwealth of Massachusetts

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

An Act relative to enhancing hiring practices to prevent 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 SECTION 1. Chapter 71 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby 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” means the non-accidental commission of any act by a caregiver which
7 causes or creates a substantial risk of physical or emotional injury or sexual abuse of a child or
8 student; or the victimization of a child or student through sexual exploitation, regardless if the
9 person responsible is a caretaker.

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

20 (1) A list, including name, address, telephone number and other relevant contact
21 information of the applicant, including:

22 (i) Current employer;

23 (ii) All former employers that were school entities;

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

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

28 (3) A written statement of whether the applicant:

29 (i) has been the subject of (A) an abuse or sexual misconduct investigation by any

30 employer, State licensing agency, law enforcement agency, unless the investigation resulted in a

31 finding that the allegations were false or inconclusive; or (B) an investigation of abuse under
32 section 51A of chapter 119 in which the allegations of abuse against the applicant were
33 substantiated by the department of children and families and not subsequently unsubstantiated or
34 overturned on appeal;

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

41 (iii) has ever had a license, professional license or certificate suspended, surrendered or
42 revoked (A) while allegations of abuse or sexual misconduct were pending or under
43 investigation, unless the investigation resulted in a finding that the allegations were false or
44 inconclusive, or in the case of section 51A of chapter 119, unsubstantiated; or (B) due to
45 adjudicated findings of abuse or sexual misconduct.

46 (b) Before a school or contracted service provider may offer employment to an applicant
47 who would be employed by or work in a school in a position involving direct or regular contact
48 with children, the school or contracted service provider shall conduct a review of the
49 employment history of the applicant by contacting those employers listed by the applicant and
50 requesting the following information:

51 (1) The dates of employment of the applicant.

52 (2) A statement as to whether the applicant:

53 (i) was the subject of (A) an abuse or sexual misconduct investigation by any employer,
54 State licensing agency, law enforcement agency, unless such investigation resulted in a finding
55 that the allegations were false or inconclusive; or (B) an investigation of abuse under section
56 51A of chapter 119 in which the allegations of abuse against the applicant were substantiated by
57 the department of children and families and not subsequently unsubstantiated or overturned on
58 appeal.

59 (ii) was disciplined, discharged, non-renewed, asked to resign from employment,
60 resigned from or otherwise separated from any employment (A) while allegations of abuse or
61 sexual misconduct were pending or under investigation, unless the investigation resulted in a
62 finding that the allegations were false or inconclusive or, in the case of section 51A of chapter
63 119, unsubstantiated; or (B) due to an adjudication or findings of abuse or sexual misconduct; or

64 (iii) has ever had a license, professional license or certificate suspended, surrendered or
65 revoked while allegations of abuse or sexual misconduct were pending or under investigation, or
66 due to adjudicated findings of abuse or sexual misconduct.

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

73 (d) Before a school or contracted service provider may offer employment to an applicant
74 who would be employed by or in a school entity in a position involving regular contact with

75 children, the school entity or contracted service provider shall check the Central Registry of the
76 department of children and families. A substantiated finding of physical or sexual abuse of a
77 child shall disqualify that applicant from employment.

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

81 (f) No later than 120 days after receiving a request for information under subsection (b),
82 an employer that has or had an employment relationship with the applicant shall disclose the
83 information requested. The employer shall disclose the information on a standardized form
84 developed by the department of elementary and secondary education.

85 (g)(1) After reviewing the information initially disclosed under subsection (a)(2) and
86 finding an affirmative response to subsection (a)(2)(i), (ii) or (iii), or disclosed under section (b)
87 and finding an affirmative response to subsection (b)(2)(i), (ii) or (iii), where the prospective
88 employing school or contractor makes a determination to consider the applicant for employment,
89 the school or contractor shall request that former employers provide any additional material
90 information about the matters disclosed. The applicant shall provide written authorization that
91 consents to and authorizes disclosure by the applicant's current and former employers of said
92 additional material information.

93 (2) Former employers shall provide the additional information requested no later than 90
94 days after the prospective employer's request under this paragraph.

95 (3) Information received under this section shall not be deemed a public record for the
96 purposes of section 10 of chapter 66.

97 (4) A school that receives the information under this subsection shall use the information
98 solely for the purpose of evaluating an applicant's fitness to be hired or for continued
99 employment.

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

104 (1) the applicant has provided all of the information and supporting documentation
105 required;

106 (2) the school administrator has no knowledge of information pertaining to the applicant
107 that would disqualify the applicant from employment; and

108 (3) the applicant swears or affirms that the applicant is not disqualified from employment.

109 (i) A school or contractor may not enter into a collective bargaining agreement, an
110 employment contract, an agreement for resignation or termination, a severance agreement or any
111 other contract or agreement or take any action that interferes with the operation of section 51A of
112 chapter 119 or appropriate criminal authority. Any provision of an employment contract or
113 agreement for resignation or termination or a severance agreement that is executed, amended or
114 entered into after the effective date of this section and that is contrary to this section shall be
115 void.

116 (1) Any individual who is a school employee, contractor, or agent, or any State
117 educational agency or local educational agency, shall be prohibited from assisting a school

118 employee, contractor, or agent in obtaining a new job in another educational agency or school,
119 apart from the routine transmission of administrative and personnel files, if the individual or
120 agency knows, or has probable cause to believe, that such school employee, contractor, or agent
121 engaged in sexual misconduct regarding a minor or student in violation of the law.

122 (2) Exception- The requirements of subsection (a) shall not apply if the information
123 giving rise to probable cause:

124 (i) has been properly reported to a law enforcement agency with jurisdiction over the
125 alleged misconduct; and has been properly reported to any other authorities as required by
126 Federal, State, or local law, including title IX of the Education Amendments of 1972 (20 U.S.C.
127 1681 et seq.) and the regulations implementing such title under part 106 of title 34, Code of
128 Federal Regulations, or any succeeding regulations; and

129 (ii) the matter has been officially closed or the prosecutor or police with jurisdiction over
130 the alleged misconduct has investigated the allegations and notified school officials that there is
131 insufficient information to establish probable cause that the school employee, contractor, or
132 agent engaged in sexual misconduct regarding a minor or student in violation of the law;

133 (iii) the school employee, contractor, or agent has been charged with, and acquitted or
134 otherwise exonerated of the alleged misconduct; or

135 (iv) the case or investigation remains open and there have been no charges filed against,
136 or indictment of, the school employee, contractor, or agent within 4 years of the date on which
137 the information was reported to a law enforcement agency.

138 (v)(A) For substitute employees, the employment history review required by this section
139 shall be required only prior to the initial hiring of a substitute or placement on the school entity's
140 approved substitute list and shall remain valid as long as the substitute continues to be employed
141 by the same school entity or remains on the school entity's approved substitute list.

142 (B) A substitute seeking to be added to another school entity's substitute list shall
143 undergo a new employment history review. The appearance of a substitute on one school entity's
144 substitute list does not relieve another school entity from compliance with this section.

145 (C) An employment history review conducted upon initial hiring of a substitute employee
146 by an contracted service provider, intermediate unit or any other entity that furnishes substitute
147 staffing services to school entities shall satisfy the requirements of this section for all school
148 entities using the services of that independent contractor, intermediate unit or other entity.

149 (D) A contracted service provider, intermediate unit or any other entity furnishing
150 substitute staffing services to school entities shall comply with the provisions of this Act.

151 (E) For purposes of this subsection, "substitute employee" shall not mean school bus
152 drivers employed by a contracted service provider.

153 (j)(1) For employees of contracted service providers, the employment history review
154 required by this section shall be performed either at the time of the initial hiring of the employee
155 or prior to the assignment of an existing employee to perform work for a school entity in a
156 position involving regular contact with children. The review shall remain valid as long as the
157 employee remains employed by that same contractor even though assigned to perform work for
158 other school entities.

159 (2) A contracted service provider shall maintain records documenting employment
160 history reviews for all employees as required by this section and, upon request, shall provide a
161 school entity for which an employee is assigned to perform work access to the records pertaining
162 to that employee.

163 (3) Prior to assigning an employee to perform work for a school in a position involving
164 regular contact with children, the contracted service provider shall inform the school of any
165 instance known to the contractor in which the employee:

166 (i) was the subject of any abuse or sexual misconduct investigation by any employer,
167 State licensing agency, law enforcement authority or child protective services agency, unless
168 such investigation resulted in a finding that allegations are false;

169 (ii) has ever been disciplined, discharged, non-renewed, removed from a substitute list,
170 asked to resign from employment, resigned from or otherwise separated from any employment
171 while allegations of abuse or sexual misconduct as described in subparagraph (i) were pending or
172 under investigation, or due to an adjudication or findings of abuse or sexual misconduct; or

173 (iii) has ever had a license, professional license or certificate suspended, surrendered or
174 revoked while allegations of abuse or sexual misconduct were pending or under investigation, or
175 due to an adjudication or findings of abuse or sexual misconduct.

176 (4) The independent contractor may not assign the employee to perform work for the
177 school in a position involving direct contact with children where the school objects to the
178 assignment after being informed of an instance of abuse or sexual misconduct.

179 (5) An applicant who has once undergone the employment history review required and
180 seeks to transfer to or provide services to another school in the same district, diocese or religious
181 judicatory or established and supervised by the same organization shall not be required to obtain
182 additional reports before making such transfer.

183 (k) (1) An employer, school, school administrator or independent contractor who in good
184 faith provides information or records including personnel records about a current or former
185 employee's job performance and professional conduct to a prospective school employer or to the
186 department of elementary and secondary education shall be immune from criminal and civil
187 liability for the disclosure or any consequences of the disclosure, unless the information or
188 records were provided with the knowledge that they were false or misleading. Such immunity
189 shall be in addition to and not in limitation of any other immunity provided by law or any
190 absolute or conditional privileges applicable to such disclosures by virtue of the circumstances or
191 the applicant's consent thereto.

192 (2) Except where the laws of other states prevent the release of the information or records
193 requested, or disclosure is restricted by the terms of a contract entered into prior to the effective
194 date of this section, the willful failure of a former employer, school entity, school administrator
195 or independent contractor to respond or provide the information and records as requested may
196 result in civil penalties, and professional discipline where appropriate.

197 (3) Notwithstanding any provision of law to the contrary, an employer, school, school
198 administrator, independent contractor or applicant shall report and disclose in accordance with
199 this section all relevant information, records and documentation that may otherwise be
200 confidential under section 10 of chapter 66.

201 (4) A school or independent contractor may not hire an applicant who does not provide
202 the information required under subsection (a)(2) for a position involving contact with children.

203 (l) Nothing in this section shall be construed:

204 (1) To prevent a prospective employer from conducting further investigations of
205 prospective employees or from requiring applicants to provide additional background
206 information or authorizations beyond what is required under this section, nor to prevent a former
207 employer from disclosing more information than what is required under this section.

208 (2) To relieve a school, school administrator or independent contractor of its legal
209 responsibility to report suspected incidents of abuse in accordance with the provisions of section
210 51A of chapter 119 or misconduct by a licensed educator in accordance with the reporting
211 requirements of the department of elementary and secondary education.

212 (3) To relieve a school, school administrator or independent contractor of its legal
213 responsibility to report suspected incidents of professional misconduct in accordance with
214 chapter 119, section 51A or misconduct by a licensed educator in accordance with the reporting
215 requirements of the department of elementary and secondary education.

216 (4) To prohibit the right of the exclusive representative pursuant to chapter 150E to
217 challenge the validity of an employee's termination or discipline under a collective bargaining
218 agreement or any relevant statute.

219 (m)(1) The office of the attorney general shall have jurisdiction to determine willful
220 violations of this section and may, following a hearing, assess a civil penalty not to exceed ten
221 thousand dollars (\$10,000). School entities shall be barred from contracting with an independent

222 contractor who is found to have willfully violated the provisions of this section. Willful
223 violations of the provisions of this section shall be reported to the relevant licensing authority.

224 (2) Notwithstanding any other provision of law to the contrary, the department of
225 education shall gather data on all reports of sexual misconduct and sexual abuse of students by
226 school employees, including details of the allegations of sexual misconduct and sexual abuse;
227 name of the school filing the report; whether an investigation was conducted and, if not, reasons
228 why; the outcome of any investigation, including whether a license was temporarily or
229 permanently revoked or whether the employee surrendered their license in lieu of an
230 investigation. These aggregated data will be reported to the legislature on an annual basis and a
231 report made available to the public and to the National Association of State Directors of Teacher
232 Education and Certification Clearinghouse or any national databases serving the same purpose.

233 (3) The department of education shall notify each school district and school about the
234 provisions of this act to ensure applicants and employers are aware of their respective rights and
235 responsibilities under this act. The department shall develop standardized forms for applicants
236 and employers to use to comply with the requirements of subsection (a) of this act, as well as any
237 other informational materials that may assist applicants and employers in the implementation of
238 and compliance with this act.

239 4) The board of education may promulgate regulations for implementation and
240 enforcement of this chapter. Upon release of the proposed regulations, the board shall file a copy
241 of the regulations with the clerks of the house of representatives and the senate, who shall
242 forward the regulations to the joint committee on education. Within 30 days of the filing, the
243 committee may hold a public hearing and issue a report on the regulations and file the report

244 with the board. The board, pursuant to applicable law, may adopt final regulations making
245 revisions to the proposed regulations as it deems appropriate after consideration of the report and
246 shall file a copy of the final regulations with the chairpersons of the joint committee on education
247 and, not earlier than 30 days after the filing, the board shall file the final regulations with the
248 state secretary.

249 (5) No employer shall be liable for injury, loss of property, personal injury or death
250 caused by an act or omission of a public employee while acting in the scope of the public
251 employee's employment and arising out of the implementation of this chapter. This chapter shall
252 not be construed as creating or imposing a specific duty of care.