

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

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**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:

*Joan B. Lovely*

DISTRICT/ADDRESS:

*Second Essex*

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

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[Pin Slip]

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[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

8 child or

9 student; or the victimization of a child or student through sexual exploitation, regardless  
10 if the  
11 person responsible is a caretaker.

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

21 (a) A school district, charter school, nonpublic school, or contracted service provider  
22 holding a contract with a school district, charter school, or nonpublic school may not  
23 offer  
24 employment to an applicant who would be employed by or work in a school in a position  
25 which  
26 involves direct or regular contact with students, unless the school district, charter school,  
27 nonpublic school, or contracted service provider requires the applicant to provide:

28 (1) A list, including name, address, telephone number and other relevant contact  
29 information of the applicant, including:  
30 (i) Current employer;  
31 (ii) All former employers that were school entities;  
32 (iii) All former employers if the applicant was employed in positions that involved direct  
33 contact with children.

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

36 (3) A written statement of whether the applicant:  
37 (i) has been the subject of (A) an abuse or sexual misconduct investigation by any  
38 employer, State licensing agency, law enforcement agency, unless the investigation  
39 resulted in a  
40 finding that the allegations were false or inconclusive; or (B) an investigation of abuse  
41 under  
42 section 51A of chapter 119 in which the allegations of abuse against the applicant were  
43  
44 substantiated by the department of children and families and not subsequently  
45 unsubstantiated or

46 overturned on appeal;

47 (ii) has ever been disciplined, discharged, non-renewed, asked to resign from

48 employment, resigned from or otherwise separated from any employment (A) while

49 allegations

50 of abuse or sexual misconduct were pending or under investigation, unless the

51 investigation

52 resulted in a finding that the allegations were false or inconclusive, or in the case of

53 section 51A

54 of chapter 119, unsubstantiated; or (B) due to an adjudication or findings of abuse or

55 sexual

56 misconduct.; or

57 (iii) has ever had a license, professional license or certificate suspended, surrendered or

58 revoked (A) while allegations of abuse or sexual misconduct were pending or under

59 investigation, unless the investigation resulted in a finding that the allegations were false

60 or

61 inconclusive, or in the case of section 51A of chapter 119, unsubstantiated; or (B) due to

62 adjudicated findings of abuse or sexual misconduct.

63 (b) Before a school or contracted service provider may offer employment to an applicant

64           who would be employed by or work in a school in a position involving direct or regular  
65 contact

66           with children, the school or contracted service provider shall conduct a review of the  
67 employment history of the applicant by contacting those employers listed by the applicant  
68 and

69           requesting the following information:

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

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

72

73           (i) was the subject of (A) an abuse or sexual misconduct investigation by any employer,  
74 State licensing agency, law enforcement agency, unless such investigation resulted in a  
75 finding

76           that the allegations were false or inconclusive; or (B) an investigation of abuse under  
77 section

78           51A of chapter 119 in which the allegations of abuse against the applicant were  
79 substantiated by

80           the department of children and families and not subsequently unsubstantiated or  
81 overturned on

82           appeal.

83 (ii) was disciplined, discharged, non-renewed, asked to resign from employment,  
84 resigned from or otherwise separated from any employment (A) while allegations of  
85 abuse or  
86 sexual misconduct were pending or under investigation, unless the investigation resulted  
87 in a  
88 finding that the allegations were false or inconclusive or, in the case of section 51A of  
89 chapter  
90 119, unsubstantiated; or (B) due to an adjudication or findings of abuse or sexual  
91 misconduct; or  
92 (iii) has ever had a license, professional license or certificate suspended, surrendered or  
93 revoked while allegations of abuse or sexual misconduct were pending or under  
94 investigation, or  
95 due to adjudicated findings of abuse or sexual misconduct.  
96 (c) Before a school or contracted service provider may offer employment to an applicant  
97 who would be employed by or in a school entity in a position involving regular contact  
98 with  
99 children, the school entity or contracted service provider shall check the eligibility for  
100 employment or certification status of the applicant to determine whether the applicant  
101 holds valid

102 and active certification appropriate for the position and is otherwise eligible for  
103 employment and

104 whether the applicant has been the subject of professional discipline.

105 (d) Before a school or contracted service provider may offer employment to an  
106 applicant

107 who would be employed by or in a school entity in a position involving regular contact  
108 with

109 children, the school entity or contracted service provider shall check the Central Registry  
110 of the

111 department of children and families. A substantiated finding of physical or sexual abuse  
112 of a child

113 shall disqualify that applicant from employment.

114 (e) An applicant who provides false information or willfully fails to disclose  
115 material

116 required information shall be subject to discipline up to, and including, termination or  
117 denial of

118 employment and may be subject to professional discipline.

119 (f) No later than 120 days after receiving a request for information under subsection (b),



120 an employer that has or had an employment relationship with the applicant shall disclose  
121 the  
122 information requested. The employer shall disclose the information on a standardized  
123 form  
124 developed by the department of elementary and secondary education.

125 (g)(1) After reviewing the information initially disclosed under subsection (a)(2) and  
126 finding an affirmative response to subsection (a)(2)(i), (ii) or (iii), or disclosed under  
127 section (b)  
128 and finding an affirmative response to subsection (b)(2)(i), (ii) or (iii), where the  
129 prospective  
130 employing school or contractor makes a determination to consider the applicant for  
131 employment,  
132 the school or contractor shall request that former employers provide any additional  
133 material  
134 information about the matters disclosed. The applicant shall provide written authorization  
135 that  
136 consents to and authorizes disclosure by the applicant's current and former employers of  
137 said  
138 additional material information.

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

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

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

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

150 (1) the applicant has provided all of the information and supporting documentation  
151 required;

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

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

155 (i) A school or contractor may not enter into a collective bargaining agreement, an

156 employment contract, an agreement for resignation or termination, a severance agreement  
157 or any  
158 other contract or agreement or take any action that interferes with the operation of section  
159 51A of  
160 chapter 119 or appropriate criminal authority. Any provision of an employment contract  
161 or  
162 agreement for resignation or termination or a severance agreement that is executed,  
163 amended or  
164 entered into after the effective date of this section and that is contrary to this section shall  
165 be  
166 void.

167 (1) Any individual who is a school employee, contractor, or agent, or any State  
168 educational agency or local educational agency, shall be prohibited from assisting a  
169 school  
170 employee, contractor, or agent in obtaining a new job in another educational agency or  
171 school,  
172 apart from the routine transmission of administrative and personnel files, if the individual  
173 or  
174 agency knows, or has probable cause to believe, that such school employee, contractor, or  
175 agent

176 engaged in sexual misconduct regarding a minor or student in violation of the law.

177 (2) Exception- The requirements of subsection (a) shall not apply if the information

178 giving rise to probable cause:

179 (i) has been properly reported to a law enforcement agency with jurisdiction over the

180 alleged misconduct; and has been properly reported to any other authorities as required

181 by

182 Federal, State, or local law, including title IX of the Education Amendments of 1972 (20

183 U.S.C.

184 1681 et seq.) and the regulations implementing such title under part 106 of title 34, Code

185 of

186 Federal Regulations, or any succeeding regulations; and

187 (ii) the matter has been officially closed or the prosecutor or police with jurisdiction over

188 the alleged misconduct has investigated the allegations and notified school officials that

189 there is

190 insufficient information to establish probable cause that the school employee, contractor,

191 or

192 agent engaged in sexual misconduct regarding a minor or student in violation of the law;

193 (iii) the school employee, contractor, or agent has been charged with, and acquitted or

194 otherwise exonerated of the alleged misconduct; or

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

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

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

209 (C) An employment history review conducted upon initial hiring of a substitute employee  
210 by an contracted service provider, intermediate unit or any other entity that furnishes  
211 substitute  
212 staffing services to school entities shall satisfy the requirements of this section for all  
213 school

214 entities using the services of that independent contractor, intermediate unit or other entity.

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

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

219 (j)(1) For employees of contracted service providers, the employment history review  
220 required by this section shall be performed either at the time of the initial hiring of the  
221 employee

222 or prior to the assignment of an existing employee to perform work for a school entity in

223 a

224 position involving regular contact with children. The review shall remain valid as long as

225 the

226 employee remains employed by that same contractor even though assigned to perform  
227 work for

228 other school entities.

229 (2) A contracted service provider shall maintain records documenting employment

230 history reviews for all employees as required by this section and, upon request, shall

231 provide a

232 school entity for which an employee is assigned to perform work access to the records  
233 pertaining  
234 to that employee.

235 (3) Prior to assigning an employee to perform work for a school in a position  
236 involving

237 regular contact with children, the contracted service provider shall inform the school of  
238 any

239 instance known to the contractor in which the employee:

240 (i) was the subject of any abuse or sexual misconduct investigation by any  
241 employer,

242 State licensing agency, law enforcement authority or child protective services agency,  
243 unless

244 such investigation resulted in a finding that allegations are false;

245 (ii) has ever been disciplined, discharged, non-renewed, removed from a substitute  
246 list,

247 asked to resign from employment, resigned from or otherwise separated from any  
248 employment

249 while allegations of abuse or sexual misconduct as described in subparagraph (i) were  
250 pending or

251 under investigation, or due to an adjudication or findings of abuse or sexual misconduct;

252 or

253 (iii) has ever had a license, professional license or certificate suspended,

254 surrendered or

255 revoked while allegations of abuse or sexual misconduct were pending or under

256 investigation, or

257 due to an adjudication or findings of abuse or sexual misconduct.

258 (4) The independent contractor may not assign the employee to perform work for

259 the

260 school in a position involving direct contact with children where the school objects to the

261 assignment after being informed of an instance of abuse or sexual misconduct.

262 (5) An applicant who has once undergone the employment history review required

263 and

264 seeks to transfer to or provide services to another school in the same district, diocese or

265 religious

266 judicatory or established and supervised by the same organization shall not be required to

267 obtain

268 additional reports before making such transfer.



269 (k) (1) An employer, school, school administrator or independent contractor who  
270 in good  
271 faith provides information or records including personnel records about a current or  
272 former  
273 employee's job performance and professional conduct to a prospective school employer  
274 or to the  
275 department of elementary and secondary education shall be immune from criminal and  
276 civil  
277 liability for the disclosure or any consequences of the disclosure, unless the information  
278 or  
279 records were provided with the knowledge that they were false or misleading. Such  
280 immunity  
281 shall be in addition to and not in limitation of any other immunity provided by law or any  
282 absolute or conditional privileges applicable to such disclosures by virtue of the  
283 circumstances or  
284 the applicant's consent thereto.

285 (2) Except where the laws of other states prevent the release of the information or  
286 records  
287 requested, or disclosure is restricted by the terms of a contract entered into prior to the  
288 effective

289 date of this section, the willful failure of a former employer, school entity, school  
290 administrator  
291 or independent contractor to respond or provide the information and records as requested  
292 may  
293 result in civil penalties, and professional discipline where appropriate.

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

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

304 (1) Nothing in this section shall be construed:

305 (1) To prevent a prospective employer from conducting further investigations of  
306 prospective employees or from requiring applicants to provide additional background

307 information or authorizations beyond what is required under this section, nor to prevent a  
308 former

309 employer from disclosing more information than what is required under this section.

310 (2) To relieve a school, school administrator or independent contractor of its legal

311 responsibility to report suspected incidents of abuse in accordance with the provisions of  
312 section

313 51A of chapter 119 or misconduct by a licensed educator in accordance with the  
314 reporting

315 requirements of the department of elementary and secondary education.

316 (3) To relieve a school, school administrator or independent contractor of its legal

317 responsibility to report suspected incidents of professional misconduct in accordance with

318 chapter 119, section 51A or misconduct by a licensed educator in accordance with the  
319 reporting

320 requirements of the department of elementary and secondary education.

321 (4) To prohibit the right of the exclusive representative pursuant to chapter 150E to

322 challenge the validity of an employee's termination or discipline under a collective  
323 bargaining

324 agreement or any relevant statute

325 (m)(1) The office of the attorney general shall have jurisdiction to determine  
326 willful  
327 violations of this section and may, following a hearing, assess a civil penalty not to  
328 exceed ten  
329 thousand dollars (\$10,000). School entities shall be barred from contracting with an  
330 independent  
331 contractor who is found to have willfully violated the provisions of this section. Willful  
332 violations of the provisions of this section shall be reported to the relevant licensing  
333 authority.

334 (2) Notwithstanding any other provision of law to the contrary, the department of  
335 education shall gather data on all reports of sexual misconduct and sexual abuse of  
336 students by  
337 school employees, including details of the allegations of sexual misconduct and sexual  
338 abuse; name  
339 of the school filing the report; whether an investigation was conducted and, if not,  
340 reasons why;  
341 the outcome of any investigation, including whether a license was temporarily or  
342 permanently  
343 revoked or whether the employee surrendered their license in lieu of an investigation.  
344 These

345 aggregated data will be reported to the legislature on an annual basis and a report made  
346 available to  
347 the public and to the National Association of State Directors of Teacher Education and  
348 Certification Clearinghouse or any national databases serving the same purpose.

349 (3) The department of education shall notify each school district and school about  
350 the  
351 provisions of this act to ensure applicants and employers are aware of their respective  
352 rights and  
353 responsibilities under this act. The department shall develop standardized forms for  
354 applicants  
355 and employers to use to comply with the requirements of subsection (a) of this act, as  
356 well as any  
357 other informational materials that may assist applicants and employers in the  
358 implementation of  
359 and compliance with this act.

360 4) The board of education may promulgate regulations for implementation and  
361 enforcement of this chapter. Upon release of the proposed regulations, the board shall file  
362 a copy  
363 of the regulations with the clerks of the house of representatives and the senate, who shall

364 forward the regulations to the joint committee on education. Within 30 days of the filing,  
365 the  
366 committee may hold a public hearing and issue a report on the regulations and file the  
367 report  
368 with the board. The board, pursuant to applicable law, may adopt final regulations  
369 making  
370 revisions to the proposed regulations as it deems appropriate after consideration of the  
371 report and  
372 shall file a copy of the final regulations with the chairpersons of the joint committee on  
373 education  
374 and, not earlier than 30 days after the filing, the board shall file the final regulations with  
375 the  
376 state secretary.

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