

HOUSE No. 01346

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

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 passage of the accompanying bill:

An Act relative to the sentencing of children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>

HOUSE No. 01346

By Ms. Elizabeth A. Malia of Boston, petition (accompanied by bill, House, No. 01346) of Aaron Michlewitz and others relative to the sentencing of children accused of certain crimes.. Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the sentencing of children.

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. Paragraph 2 of section 4 of chapter 27 of the General Laws, as appearing in the
2 2008 Official Edition, is hereby amended by inserting after the third sentence the following
3 sentence:-

4 At least one person on said list shall be a professional with not less than five years of experience
5 and training in adolescent development and psychology, and shall be selected from a list of
6 proposed nominees provided by the following organizations: the Massachusetts chapter of the
7 American Academy of Pediatrics; the New England Council of Child and Adolescent Psychiatry,
8 Inc.; the Massachusetts Psychological Association, Inc.; the Massachusetts Psychiatric Society,
9 and the Committee for Public Counsel Services.

10 SECTION 2. Paragraphs 1 and 2 of Section 72B of chapter 119, as so appearing, are hereby
11 amended by striking out said paragraphs and inserting in place thereof the following paragraphs:-

12 Notwithstanding the provisions of section two of chapter two hundred and sixty-five, if a person
13 is found guilty of murder in the first degree committed on or after his fourteenth birthday and
14 before his eighteenth birthday, the superior court shall commit the person to imprisonment in a
15 state prison for life. Said person shall be eligible for parole under section one hundred and
16 thirty-three A of chapter one hundred and twenty-seven when such person has served fifteen
17 years of said confinement. Thereafter said person shall be subject to the provisions of law
18 governing the granting of parole permits by the parole board.

19 Notwithstanding the provisions of section two of chapter two hundred and sixty-five, if a person
20 is found guilty of murder in the second degree committed on or after his fourteenth birthday and
21 before his eighteenth birthday, the superior court shall commit the person to imprisonment in a
22 state prison for life. Said person shall be eligible for parole under section one hundred and thirty-
23 three A of chapter one hundred and twenty-seven when such person has served fifteen years of
24 said confinement. Thereafter said person shall be subject to the provisions of law governing the
25 granting of parole permits by the parole board.

26 SECTION 3. Section 72B of said chapter 119, as so appearing, is hereby further amended by
27 striking out paragraph 4 and inserting in place thereof the following paragraph:-

28 A person who is found guilty of murder in the first or second degree and is sentenced to a state
29 prison but who has not yet reached his eighteenth birthday shall be held in a youthful offender
30 unit separate from the general population of adult prisoners; provided, however, that such person
31 shall be classified at a facility other than the reception and diagnostic center at the Massachusetts
32 Correctional Institution - Concord, and shall not be held at the Massachusetts Correctional
33 Institution - Cedar Junction, prior to his eighteenth birthday.

34 SECTION 4. Paragraph one of section 133A of chapter 127, as so appearing, is hereby amended
35 by striking out said paragraph and inserting in place thereof the following paragraph:-

36 Section 133A. Notwithstanding the provisions of section two of chapter two hundred and sixty-
37 five, every prisoner who is serving a sentence for life in a correctional institution of the
38 commonwealth, except prisoners confined to the hospital at the Massachusetts Correctional
39 Institution - Bridgewater, and except prisoners serving a life sentence for murder in the first
40 degree who committed such offense on or after their eighteenth birthday, shall be eligible for
41 parole, and the parole board shall, within sixty days before the expiration of fifteen years of such
42 sentence, conduct a public hearing before the full membership unless a member of the board is
43 determined to be unavailable as provided in this section. For the purposes of this section, the
44 term unavailable shall mean that a board member has a conflict of interest to the extent that he
45 cannot render a fair and impartial decision or that the appearance of a board member would be
46 unduly burdensome because of illness, incapacitation, or other circumstance. Whether a member
47 is unavailable for the purposes of this section shall be determined by the chair. Board members
48 shall appear unless said chair determines them to be unavailable. Under no circumstances shall a
49 parole hearing proceed pursuant to this section unless a majority of the board is present at the
50 public hearing. Unless a board member is unavailable due to a conflict of interest, any board
51 member who was not present at the public hearing shall review the record of the public hearing
52 and shall vote in the matter.

53 SECTION 5. Section 133C of said chapter 127, as so appearing, is hereby amended by inserting
54 after the words, "except prisoners serving a life sentence for murder in the first degree" and
55 before the words, "and prisoners" the following:-

56 who committed such offense on or after their eighteenth birthday,

57 SECTION 6. Notwithstanding the provisions of section two of chapter two hundred and sixty-
58 five or section 133A of chapter 127 of the General Laws, or any other general or special law to
59 the contrary, a person serving a life sentence for murder in the first degree as of the effective date
60 of this act who committed such offense before his eighteenth birthday shall be eligible for parole
61 under section one hundred and thirty-three A of chapter one hundred and twenty-seven when
62 such person has served fifteen years of said confinement.

63 SECTION 7. This act shall take effect upon its passage.