

HOUSE No. 1801

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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 sexual assaults by adults in positions of authority or trust.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>2/19/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>2/26/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/26/2021</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>3/16/2021</i>

HOUSE No. 1801

By Ms. Miranda of Boston, a petition (accompanied by bill, House, No. 1801) of Liz Miranda and others relative to sexual assaults by adults in positions of authority or trust. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to sexual assaults by adults in positions of authority or trust.

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 265 of the General Laws is hereby amended by inserting after
2 section 13B the following section:-

3 Section 13B1/4.

4 (a) As used in this section, “position of trust, authority or supervision over a child” shall
5 include a teacher, substitute teacher, coach, tutor, special educator, paraprofessional, mentor or
6 other person providing instruction or educational services to a child or children, whether such
7 person is compensated, acting as a volunteer, or employed or contracted in any capacity in
8 private or public schools; or a person who is an instructor, tutor or coach of any athletic, artistic,
9 or academic club, team, institution or organization, or an individual tutor or coach; or a parent,
10 stepparent, adoptive parent, legal guardian, foster parent, or any person with custodial authority
11 or supervision of a child or children; or a babysitter, child care provider, or child care aide,
12 whether such person is compensated or acting as a volunteer; or any other person who because of

13 that person's familial relationship, profession, employment, vocation, avocation or volunteer
14 service has regular direct contact with a child or children.

15 (b) Whoever commits an indecent assault and battery on a child who has attained the age
16 of 14 and is under the age of 18, and who is a mandated reporter as defined in section 21 of
17 chapter 119, or who is in a position of trust, authority or supervision over a child as defined in
18 this section and who commits the indecent assault and battery in the course of acting in that
19 position or at any time thereafter, shall be punished by imprisonment in the state prison for not
20 more than 10 years, or by imprisonment in the house of corrections for not more than 2 ½ years.
21 Prosecutions commenced under this section shall neither be continued without a finding nor
22 placed on file.

23 (c) Whoever commits an indecent assault and battery on a child who is under the age of
24 14, and who is a mandated reporter as defined in section 21 of chapter 119, or who is in a
25 position of trust, authority or supervision over a child as defined in this section, and who
26 commits the indecent assault and battery in the course of acting in that position or at any time
27 thereafter, shall be punished by imprisonment in the state prison for life or for any term of years,
28 but not less than 10 years. The sentence imposed on such person shall not be reduced to less than
29 10 years, or suspended, nor shall any person convicted under this section be eligible for
30 probation, parole, work release, or furlough or receive any deduction from his or her sentence for
31 good conduct until he or she shall have served 10 years of such sentence. Prosecutions
32 commenced under this section shall neither be continued without a finding nor placed on file.

33 In a prosecution under this section, a child under the age of 18 shall be deemed incapable
34 of consenting to any conduct of the defendant for which such defendant is being prosecuted.

35 It shall not be a defense to a prosecution under this section that the position of trust,
36 authority or supervision over a child has ended, if the child is under the age of 18 at the time of
37 the offense.

38 SECTION 2. Section 13B1/2 of said chapter 265 is hereby amended by striking out
39 subsection (b).

40 SECTION 3. Section 23A of said chapter 265 is hereby amended by striking out
41 subsection (c).

42 SECTION 4. Said chapter 265 is hereby further amended by inserting after section 23A
43 the following section:-

44 Section 23A1/2.

45 (a) Whoever unlawfully has sexual intercourse or unnatural sexual intercourse with and
46 abuses a child who has attained the age of 16 and is under the age of 18, and who is a mandated
47 reporter as defined in section 21 of chapter 119, or who is in a position of trust, authority or
48 supervision over a child as defined in section 13B1/4 of chapter 265, and who commits such
49 conduct in the course of acting in that position or at any time thereafter, shall be punished by
50 imprisonment in the state prison for life or for any terms of years or, except as otherwise
51 provided, for any term in a jail or house of correction. A prosecution commenced under this
52 section shall neither be continued without a finding nor placed on file.

53 (b) Whoever unlawfully has sexual intercourse or unnatural sexual intercourse with and
54 abuses a child who is under the age of 16, and who is a mandated reported as defined in section
55 21 of chapter 119, or who is in a position of trust, authority or supervision over a child as defined

56 in section 13B1/4 of chapter 265, and who commits such conduct in the course of acting in that
57 position or at any time thereafter, shall be punished by imprisonment in the state prison for life or
58 for any terms of years, but not less than 10 years. The sentence imposed on such person shall not
59 be reduced to less than 10 years, or suspended, nor shall any person convicted under this section
60 be eligible for probation, parole, work release, or furlough or receive any deduction from his or
61 her sentence for good conduct until he or she shall have served 10 years of such sentence.
62 Prosecutions commenced under this section shall neither be continued without a finding nor
63 placed on file.

64 In a prosecution under this section, a child under the age of 18 shall be deemed incapable
65 of consenting to any conduct of the defendant for which such defendant is being prosecuted.

66 It shall not be a defense to a prosecution under this section that the position of trust,
67 authority or supervision over a child has ended, if the child is under the age of 18 at the time of
68 the offense.

69 SECTION 5. Section 63 of chapter 277 of the General Laws, as appearing in the 2018
70 Official Edition, is hereby amended by inserting after "13B," in line 2, the following:-
71 "13B1/4,".

72 SECTION 6. Said section 63 of chapter 277 is hereby further amended by inserting after
73 "23A," in line 3, the following:- "23A1/2,".

74 SECTION 7. Said section 63 of chapter 277 is hereby further amended by inserting after
75 "13B," in line 16, the following:- "13B1/4,".

76 SECTION 8. Said section 63 of chapter 277 is hereby further amended by inserting after
77 “23A,” in line 16, the following:- “23A1/2,”.