

HOUSE No. 3062

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth I. Gordon

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 the age of consent in certain criminal prosecutions and civil actions for sexual assault and rape of a child.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>

HOUSE No. 3062

By Mr. Gordon of Bedford, a petition (accompanied by bill, House, No. 3062) of Kenneth I. Gordon and others relative to the age of consent in certain criminal prosecutions and civil actions for sexual assault and rape of a child. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the age of consent in certain criminal prosecutions and civil actions for sexual assault and rape of a child.

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 268 of the General Laws, as appearing in the 2014 Official Edition, is
2 hereby amended by inserting after section 21A the following paragraphs:-

3 Section 21B. Any person who is employed by or contracts with any public or private
4 school, or the department of youth services, the department of children and families, the
5 department of mental health, the department of developmental services, or any private institution
6 providing services to clients of such departments, and who, in the course of such employment or
7 contract or as a result thereof, engages in sexual abuse of a person under the age of 19, or under
8 the age of 22 under Chapter 71B, who has not received a high school diploma, a general
9 educational development certificate, or an equivalent document and who is served by such
10 school, department or institution, within or outside of such school, department or institution,
11 shall be punished by imprisonment for not more than five years in a state prison or by a fine of
12 \$10,000 or both. In a prosecution commenced under this section, an individual served by such

13 school, department or institution shall be deemed incapable of consent to sexual relations with
14 such person. For purposes of this section, sexual relations shall be defined as that term is used of
15 chapter 260, section 4C.

16 Any person who is employed or contracted by an institution of higher learning, and who,
17 in the course of such employment or as a result thereof, engages in sexual abuse of a person who
18 is 19 years of age or under who has not received a high school diploma, a general educational
19 development certificate, or an equivalent document and who is enrolled in or attending the
20 college or university at which the person is employed, shall be punished by imprisonment for not
21 more than five years in a state prison or by a fine of \$10,000 or both. In a prosecution
22 commenced under this section, an individual served by such institution shall be deemed
23 incapable of consent to sexual relations with such person. For purposes of this section, sexual
24 relations shall be defined as that term is used of chapter 260, section 4C.

25 Section 21C. Any person who is sexually abused by an employee or contractor with any
26 public or private school, or the department of youth services, the department of children and
27 families, the department of mental health, the department of developmental services, or any
28 private institution providing services to clients of such departments, and who, in the course of
29 such employment or contract or as a result thereof, engages in sexual abuse of a person under the
30 age of 19, or under the age of 22 under Chapter 71B, who has not received a high school
31 diploma, a general educational development certificate, or an equivalent document and who is
32 served by such school, department or institution, within or outside of such school, department or
33 institution, shall have a cause of action against such an employee or contractor, under chapter
34 260, section 4C. In a civil action commenced under said section, a person served by such

35 school, department or institution shall be deemed incapable of consent to sexual relations with
36 such an employee or contractor.

37 Any person who is employed or contracted by a college or university, and who, in the
38 course of such employment or as a result thereof, engages in sexual abuse of a person who is 19
39 years of age or under who has not received a high school diploma, a general educational
40 development certificate or an equivalent document and who is enrolled in or attending the
41 college or university at which the person is employed, shall have a cause of action against such
42 an employee or contractor, under chapter 260, section 4C.