

HOUSE No. 3445

The Commonwealth of Massachusetts

PRESENTED BY:

Brian R. Mannel, (BY REQUEST)

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 child safety zones.

PETITION OF:

NAME:

Michelle R. Conover

DISTRICT/ADDRESS:

109 Bayview Street

West Yarmouth, MA

HOUSE No. 3445

By Mr. Mannel of Barnstable (by request), a petition (accompanied by bill, House, No. 3445) of Michelle R. Conover for legislation to establish child safety zones to protect children from child sex offenders. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to child safety zones.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 265 of the General Laws is hereby amended by inserting after section 48, as
2 appearing in the 2012 Official Edition, the following section:--

3 Section 48A. (a) As used in this section, the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:--

5 “Child safety zone”, a park, playground, recreation center, library, school, youth camp,
6 day-care center, private youth center, video arcade, bathing beach, swimming pool or wading
7 pool, gymnasium, sports field, sports facility, inflatable park, water park, mini-golf facility, go-
8 cart facility, trampoline park, batting cages facility, sports complex, youth and community
9 center, senior center, pond, lake, biking trail, museum, movie theater, or any other such child-
10 centered area, business or facility, including the parking area and land adjacent to any of the
11 aforementioned areas, facilities or business, within the commonwealth.

12 “Child sex offender”, (i) any sex offender, as defined by section 178C of chapter 6,
13 given a level 2 or level 3 designation by the sex offender registry board under section 178K of
14 said chapter 6 and whose victim was a child under the age of 16, or who has not yet been
15 classified and who resides, has secondary addresses, works or attends an institution of higher
16 learning in the commonwealth and who has been convicted of or who has been adjudicated as a
17 youthful offender or as a delinquent juvenile, or a person released from incarceration or parole or
18 probation supervision or custody with the Department of Youth Services for such a conviction or
19 adjudication of the following offenses: indecent assault and battery on a child under 14 under
20 section 13B of chapter 265; rape of a child under 16 with force under section 22A of said chapter
21 265; rape and abuse of a child under section 23 of said chapter 265; assault of a child with intent
22 to commit rape under section 26C of said chapter 265; kidnapping of a child under the age of 16
23 under section 26 of said chapter 265; enticing a child under the age of 16 for the purpose of
24 committing a crime under section 26C of said chapter 265; indecent assault and battery on a
25 mentally retarded person under section 13F of said chapter 265; assault with intent to commit
26 rape under section 24 of said chapter 265; inducing a minor into prostitution under section 4A of
27 chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter
28 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272;
29 posing or exhibiting a child in a state of nudity under section 29A of said chapter 272;
30 dissemination of visual material of a child in a state of nudity or sexual conduct under section
31 29B of said chapter 272; unnatural and lascivious acts with a child under the age of 16 under
32 section 35A of said chapter 272; drugging persons for sexual intercourse under section 3 of said
33 chapter 272; aggravated rape under section 39 of chapter 277; any attempt to commit a violation
34 of any of the aforementioned sections under section 6 of chapter 272 or a like violation of the

35 laws of another state, the United States or a military, territorial or Indian tribal authority, and
36 whose victim was a child under the age of 16; (ii) a person who has been adjudicated a sexually
37 dangerous person under section 14 of chapter 123A as in force at the time of adjudication, or a
38 person released from civil commitment pursuant to section 9 of said chapter 123A, whichever
39 last occurs, on or after August 1, 1981, and whose victim was a child under the age of 16; or (iii)
40 a person who resides in the commonwealth, has a secondary address, works at or attends an
41 institution of higher learning in the commonwealth and has been convicted in any other state, in
42 a federal or military court or in any foreign jurisdiction of any crime the essential elements of
43 which are substantially the same as any of the crimes specified in above at subsection (a), and
44 which requires registration as a sexual offender in such other state or in the federal or military
45 system, and who resides or works in the commonwealth on and after August 1, 1981, and whose
46 victim was a child under the age of 16.

47 (b) It shall be unlawful for a child sex offender to be present in any child safety zone.
48 Upon reasonable belief that a child sex offender is present in a child safety zone in violation of
49 this section, the officer shall obtain from the suspected child sex offender the name, address and
50 telephone number of such individual. Should the police officer thereafter establish that the
51 individual is a child sex offender, the officer shall issue a written citation to such child sex
52 offender and require that the child sex offender leave the child safety zone. Any child sex
53 offender who refuses to leave a child safety zone after receiving a citation or is later found in the
54 same child safety zone after receiving such citation shall be punished by a civil fine of not more
55 than \$300 or a criminal fine of not more than \$300, and except for persons who are less than 17
56 years of age, may be arrested without warrant. A child sex offender commits a separate offense
57 for each and every violation of this subsection.

58 (c) The attorney general or a designee shall make reasonable efforts to provide prompt,
59 actual written notice of the requirements of this section, accompanied by a printed copy of this
60 section, to the address listed on the sex offender registry, as defined in said section 178C of said
61 chapter 6, of every child sex offender who resides in the commonwealth. Such notice
62 requirement may be satisfied by mailing such notice by registered or certified mail, return receipt
63 required, to such address. The failure of any person to receive such actual written notice shall not
64 be a defense to a violation of this section.

65 (d) A map depicting the child safety zones, and a written list describing such zones, shall
66 be created and maintained, in coordination with the department of public safety, by the chief of
67 police, or the board or officer having control of the police, in every city or town in the
68 commonwealth where a child safety zone is located. Said chief of police shall review said map
69 and said list, at a minimum, annually. Said map, said list and a printed copy of this section shall
70 be available to the public at the offices of said chiefs of police and shall also be posted on the
71 department of public safety's official website. The department of public safety may promulgate
72 regulations necessary for the implementation of this section.

73 (e) The provisions of this chapter shall not apply to:

74 (1) A child sex offender whose name has been removed from the sex offender registry by
75 act of a court, by expiration of the term such person is required to remain on such registry or by
76 reclassification as a level 1 sex offender, as defined by section 178K of chapter 6.

77 (2) A child safety zone that supports a church, synagogue, mosque, temple or other house
78 of religious worship, subject to all of the following conditions: (i) the child sex offender's
79 entrance and presence upon the property occurs only during hours of worship or other religious

80 program or service as posted to the public; and (ii) the child sex offender shall not participate in
81 any religious education programs that include individuals under the age of 18.

82 (3) A child safety zone that supports an event lawfully attended by a child sex offender's
83 natural or adopted child and such child's use reasonably requires the attendance of said child sex
84 offender in the child safety zone, subject to the following condition: The child sex offender's
85 entrance and presence upon the property occurs only during hours of activity related to said use
86 as posted to the public.

87 (4) A child safety zone that supports a polling location in a local, state or federal election,
88 subject to all of the following conditions: (i) the child sex offender is eligible to vote; (ii) the
89 child safety zone is the designated polling place for the child sex offender; and (iii) the child sex
90 offender enters the polling place, proceeds to cast a ballot and vacates the child safety zone
91 immediately after voting.

92 (5) A child safety zone supports a school lawfully attended by a child sex offender as a
93 student, under which circumstances the child sex offender may enter upon the child safety zone
94 supporting the school at which time the child sex offender is enrolled, for such purposes and at
95 such times as are reasonably required for the education purposes of the school.

96 (6) A child safety zone supports a court, government office or room for public
97 governmental meetings, subject to all of the following conditions: (i) the child sex offender is
98 present in the child safety zone only to transact business at a government office, court or place of
99 business, excluding a library, or attend an official meeting of a governmental body; and (ii) the
100 child sex offender leaves the child safety zone immediately upon completion of the business,
101 proceeding or meeting.