

**HOUSE . . . . . No. 00445**

---

The Commonwealth of Massachusetts

\_\_\_\_\_  
PRESENTED BY:

*Kay Khan*

\_\_\_\_\_

*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 protection of children.

\_\_\_\_\_  
PETITION OF:

NAME:

DISTRICT/ADDRESS:

-----  
*Kay Khan*

-----  
*11th Middlesex*

-----  
*Patricia D. Jehlen*

-----  
*Second Middlesex*

# HOUSE . . . . . No. 00445

By Ms. Kay Khan of Newton, petition (accompanied by bill, House, No. 00445) of Patricia Jehlen and Kay Khan relative to the protection of children from assault and battery or sexual abuse. Joint Committee on the Judiciary.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the protection 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. Section 13B of chapter 265 of the General Laws, as most recently amended by  
2 chapter 205 of the Acts of 2008, is hereby amended by striking said section in its entirety and  
3 inserting in place thereof the following section: -

4 Section 13B. Whoever commits an indecent assault and battery on a minor under the age  
5 of 14 shall be punished by imprisonment in the state prison for not more than 10 years, or by  
6 imprisonment in the house of correction for not more than 2½ years. A prosecution commenced  
7 under this section shall neither be continued without a finding nor placed on file.

8 In a prosecution under this section, a minor under the age of 14 years shall be deemed incapable  
9 of consenting to any conduct of the defendant for which such defendant is being prosecuted  
10 unless

11 (a) the defendant is no more than three years older than the minor; or

12 (b) the defendant is no more than two years older than the minor if the minor is under twelve  
13 years of age.

14 Notwithstanding the provisions of Chapter 119 section 54, or any other general or special law to  
15 the contrary, in a prosecution under this section in which the defendant is under seventeen years  
16 of age at the time of the offense, the commonwealth shall only proceed by complaint in juvenile  
17 court or in a juvenile session of a district court.

18 SECTION 2. Section 23 of said chapter 265, as so appearing, is amended by striking out said  
19 section in its entirety and inserting in place thereof the following section:-

20 Section 23. Whoever has sexual intercourse or unnatural sexual intercourse with a minor under  
21 16 years of age and:

22 (a) the defendant is more than four years older than the minor, or

23 (b) the minor is under fourteen years of age and the defendant is more than three years older  
24 than the minor; or

25 (c) the minor is under twelve years of age and the defendant is more than two years older  
26 than the minor,

27 shall be punished by imprisonment in the state prison for life or for any term of years, or, except  
28 as otherwise provided, for any term in a jail or house of correction, provided, however, that a  
29 prosecution commenced under this section shall not be placed on file or continued without a  
30 finding.

31 Notwithstanding the provisions of Chapter 119 section 54, or any other general or special law to  
32 the contrary, in a prosecution under this section in which the defendant is under seventeen years

33 of age at the time of the offense, the commonwealth shall only proceed by complaint in juvenile  
34 court or in a juvenile session of a district court.

35 SECTION 3. Section 4 of chapter 272 of the General Laws as appearing in the 2008 Official  
36 Edition is hereby repealed.

37 SECTION 4. This Act shall take effect upon its passage.