

SENATE No. 294

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 to remedy disparities in students' educational achievement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/9/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/17/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/23/2023</i>

SENATE No. 294

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 294) of Patricia D. Jehlen, Sal N. DiDomenico, James B. Eldridge and Rebecca L. Rausch for legislation to promote the education success of court involved children. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 344 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to remedy disparities in students' educational achievement.

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 37H of chapter 71 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
3 the following subsection:-

4 “(a) Any student who is found on school premises or at school-sponsored or school-
5 related events, including athletic games, in possession of a dangerous weapon, defined by section
6 10 of chapter 269 of the General Laws; or a controlled substance as defined in chapter ninety-
7 four C, including, but not limited to, cocaine and heroin, but not including marijuana, may be
8 subject to expulsion from the school or school district by the principal.”

9 SECTION 2. Clause (b) of the fourth paragraph of section 37H of said chapter 71, as so
10 appearing, is hereby amended by striking out the word “assaults” and inserting in place thereof
11 the following words:- willfully assaults, with intent and means to harm,.

12 SECTION 3. Subsection (c) of said section 37H of chapter 71, as so appearing, is hereby
13 further amended by striking out subsection (c) and inserting in place thereof the following
14 subsection:-

15 “(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be
16 notified in writing in English and in the primary language spoken in the student’s home of the
17 charge, and right to a hearing prior to any exclusion. The student shall have a right: to
18 representation, along with adequate time to prepare for the hearing; to access documented
19 evidence prior to the hearing; to present evidence; to present witnesses for questioning and cross
20 examination at said hearing before the principal; and to a reasonably prompt written decision
21 including specific grounds for the decision. The principal or headmaster shall ensure that the
22 parent or guardian of the student is included in the hearing, provided that such hearing may take
23 place without the parent or guardian only if the principal or headmaster can document reasonable
24 efforts to include the parent or guardian in that hearing. The department shall promulgate rules
25 and regulations that address a principal's duties under this subsection and procedures for
26 including parents in student exclusion hearings under this subsection.

27 SECTION 4. Said section 37H of chapter 71, as so appearing, is hereby amended by
28 striking out subsection (d) and inserting in place thereof the following subsection:-

29 “(d) Any student who has been suspended or expelled from a school district pursuant to
30 these provisions shall have the right to appeal to the superintendent. The superintendent or a

31 designee shall hold a hearing with the student and the parent or guardian of the student within 3
32 school days of the student's request for an appeal; provided that a student or a parent or guardian
33 of the student may request and, if so requested, shall be granted an extension of up to 7 calendar
34 days; provided further, that the superintendent, or a designee, may proceed with a hearing
35 without a parent or guardian of the student if the superintendent, or a designee, makes a good
36 faith effort to include the parent or guardian. At the hearing, the student shall have the right to
37 present oral and written testimony, cross-examine witnesses and shall have the right to counsel.
38 The superintendent shall render a decision on the appeal in writing within 5 calendar days of the
39 hearing. That decision shall be the final decision of the school district with regard to the
40 suspension or expulsion.”

41 SECTION 5. Paragraph (1) of section 37H1/2 of chapter 71, as so appearing, is hereby
42 amended by striking out in lines 3-5, inclusive, the words, “issuance of a criminal complaint
43 charging a student with a felony or upon the issuance of a felony delinquency complaint against
44 a student” and inserting in place thereof the following words:- “arraignment or indictment of a
45 student for a felony offense”.

46 SECTION 6. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,
47 is hereby further amended by striking out the words “have a substantial detrimental effect on the
48 general welfare of the school”, in lines 9 and 10, and inserting in place thereof the following
49 words:- pose a specific, documentable concern about the infliction of serious bodily injury upon
50 another person while in school.

51 SECTION 7. Said paragraph (1) of said section 37H½ of said chapter 71, as so appearing,
52 is hereby further amended by striking out, in lines 10 to 12, inclusive, the sentence, “The student

53 shall receive written notification of the charges and the reasons for such suspension prior to such
54 suspension taking effect” and inserting in place thereof the following two sentences:-

55 The student shall receive written notification of the charges and the right to a hearing
56 before the principal. If, after the hearing, the principal chooses to suspend the student, the written
57 notice of the suspension shall include the reasons for such suspension, including the basis for the
58 principal’s determination of the documentable concern about the infliction of serious bodily
59 injury upon another person while in school, prior to such suspension taking effect.

60 SECTION 8. Paragraph (2) of said section 37H½ of said chapter 71, as so appearing, is
61 hereby amended by striking out the first paragraph and inserting in place thereof the following
62 three paragraphs:-

63 Upon a student being convicted of a or upon an adjudication or admission in court of
64 guilt with respect to such a felony or felony delinquency, the principal or headmaster of a school
65 in which the student is enrolled may expel said student if such principal or headmaster
66 determines that the student's continued presence in school would pose a specific, documentable
67 concern about the infliction of serious bodily injury upon another person while in school. The
68 student shall receive written notification of the charges and right to a hearing before the
69 principal. If after the hearing, the principal chooses to suspend or expel the student, the written
70 notice shall include the reasons for such exclusion, including the basis for the principal’s
71 specific, documentable concern about the student’s continued presence in school, prior to such
72 expulsion taking effect. The student shall also receive written notification of his right to appeal
73 and the process for appealing such expulsion; provided, however, that the expulsion shall remain
74 in effect prior to any appeal hearing conducted by the superintendent.

75 For any suspension or expulsion under this section, the principal or headmaster of a
76 school in which the student is enrolled shall provide, to the student and to the parent or guardian
77 of the student, notice of the charges and the reason for the suspension or expulsion in English
78 and in the primary language spoken in the home of the student. The student shall receive the
79 written notification and shall have the opportunity to meet for a fair hearing before the principal
80 or headmaster to discuss the charges and reasons for the suspension or expulsion prior to the
81 suspension or expulsion taking effect. The notice shall include the right to be represented by a
82 lawyer or advocate (at the student's expense); adequate time to prepare for the hearing; access to
83 documented evidence prior to the hearing; the right to present witnesses at the hearing and to
84 question them; and a reasonably prompt written decision including specific grounds for the
85 decision.

86 The principal or headmaster shall ensure that the parent or guardian of the student is
87 included in the meeting, provided that such meeting may take place without the parent or
88 guardian only if the principal or headmaster, or a designee, can document reasonable efforts to
89 include the parent or guardian in that meeting. The department shall promulgate rules and
90 regulations that address a principal's duties under this subsection and procedures for including
91 parents in student exclusion meetings, hearings or interviews under this subsection.

92 SECTION 9. Section 37H½ of chapter 71, as so appearing, is hereby amended by
93 inserting, in line 44, after the word “expulsion”, the following:- “or suspension”.

94 SECTION 10. Said section 37H½ of chapter 71, as so appearing, is hereby amended by
95 inserting, in line 47, after the word “expulsion”, the following:- “or suspension”.

96 SECTION 11. Said section 37H½ of chapter 71, as so appearing, is hereby amended by
97 inserting, in line 49, after the word “expulsion”, the following:- “or suspension”.

98 SECTION 12. Said section 37H½ of chapter 71, as so appearing, is hereby amended by
99 inserting, in line 57, after the word “expulsion”, the following:- “or suspension”.