

HOUSE No. 1493

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 passage of the accompanying:

An Act relative to the protection of children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Brian R. Mannel</i>	<i>2nd Barnstable</i>

HOUSE No. 1493

By Mr. Mannal of Barnstable (by request), a petition (accompanied by bill, House, No. 1493) of Brian R. Mannal relative to the penalties for indecent assault and battery on a minor. The Judiciary.

The Commonwealth of Massachusetts

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. Chapter 265 of the General Laws, as most recently amended by chapter 205
2 of the Acts of 2008, is hereby amended by striking out section 13B and inserting in place thereof
3 the following: -

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 15 years shall be deemed
9 incapable of consenting to any conduct of the defendant for which such defendant is being
10 prosecuted unless: (a) The defendant is no more than 3 years older than the minor; or

11 (b) The defendant is no more than 2 years older than the minor if the minor is under 12
12 years of age.

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

17 SECTION 2. Said chapter 265, as so appearing, is hereby amended by striking out
18 section 23 and inserting in place thereof the following:-

19 Section 23. Whoever has sexual intercourse or unnatural sexual intercourse with a minor
20 under 16 years of age and: (a) The defendant is more than 4 years older than the minor, or (b)
21 The minor is under 15 years of age and the defendant is more than 3 years older than the minor;

22 or (c) The minor is under 12 years of age and the defendant is more than 2 years older than the
23 minor, shall be punished by imprisonment in the state prison for life or for any term of years, or,
24 except as otherwise provided, for any term in a jail or house of correction, provided, however,
25 that a prosecution commenced under this section shall not be placed on file or continued without
26 a finding.

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

31 SECTION 3. Section 4 of chapter 272 of the General Laws, as appearing in the 2010
32 Official Edition, is hereby repealed.

33 SECTION 4. This act shall take effect upon its passage.