HOUSE DOCKET, NO. 718 FILED ON: 1/19/2011

HOUSE . . . . . No. 445

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:

An Act relative to the protection of children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	*11th Middlesex*
Patricia D. Jehlen	
	☐ *[District]*
	☐

HOUSE DOCKET, NO. 718 FILED ON: 1/19/2011

HOUSE . . . . . No. 445

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 445) of Kay Khan and Patricia D. Jehlen relative to the protection of children from assault and battery or sexual abuse. 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:

SECTION 1. Section 13B of chapter 265 of the General Laws, as most recently amended by chapter 205 of the Acts of 2008, is hereby amended by striking said section in its entirely and inserting in place thereof the following section: -

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

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

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

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

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

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

Section 23. Whoever has sexual intercourse or unnatural sexual intercourse with a minor under 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
24 years older than the minor; or

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

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

31 Notwithstanding the provisions of Chapter 119 section 54, or any other general or special
32 law to the contrary, in a prosecution under this section in which the defendant is under seventeen
33 years of age at the time of the offense, the commonwealth shall only proceed by complaint in
34 juvenile 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
36 Official Edition is hereby repealed.

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