

SENATE No. 2173

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to dropout prevention and recovery.

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. SHORT TITLE

2 This act may be cited as the “Dropout Prevention and Recovery Act.”

3 SECTION 2. Section 1B of chapter 69 of the General Laws, as appearing in the 2010
4 Official Edition, is hereby amended by inserting after the word “attendance”, in line 113, the
5 following words:- ; provided, however, that all children under the age of 18 shall be required to
6 attend school if they have not graduated from high school.

7 SECTION 3. Section 1I of said chapter 69, as appearing in the 2010 Official Edition, is
8 hereby amended by inserting, after line 58, the following paragraphs:-

9 All individual public schools that instruct students in kindergarten through grade 12 shall
10 use the early warning indicator index system, or any successor data collection and tracking
11 system, developed by the department to identify and track students at risk of not graduating on
12 time. Individual public schools shall collect all necessary data required for the use of the early
13 warning indicator index system, or any successor data collection and tracking system, as
14 determined by the department. The department shall offer school districts guidance and support
15 on the collection, review, and use of the early warning indicator index system, or any successor
16 data collection system, to best serve the needs of students, teachers, and school staff members.
17 On an annual basis, the department shall compile and analyze the data submitted by individual
18 schools and shall provide the compiled data and analysis to the applicable school. The
19 department shall also make aggregated, de-identified data and analysis available to the public
20 online on an annual basis in a machine readable format. The board may promulgate regulations
21 relating to the implementation and use of the early warning indicator index system, or any
22 successor data collection system, consistent with this paragraph. Notwithstanding anything to
23 the contrary in this section, school districts may use data collection and tracking systems other

24 than the data collection and tracking system offered by the department, subject to the approval of
25 the department. School districts seeking to use data collection and tracking systems other than
26 the data collection and tracking system offered by the department shall apply to the department
27 for a waiver. The department shall grant a waiver to a school district if it determines that the data
28 collection and tracking system of the school district meets or exceeds the criteria of the data
29 collection and tracking system offered by the department. Any such waiver shall be contingent
30 upon the school district agreeing to submit its data to the department. The school district and the
31 department shall also determine who shall be responsible for compiling and analyzing the data
32 and the system for categorizing students as at-risk, as required by section 22 of chapter 76.

33 SECTION 4. Section 2 of Chapter 70 of the General Laws, as appearing in the 2010
34 Official Edition, is hereby amended by inserting after subparagraph (G) the following:-

35 (H) "At-risk enrollment", the number of students between the ages of sixteen and
36 eighteen enrolled in the district who are identified as "at-risk students" according to the early
37 warning indicator index system, or any successor data collection and tracking system, as set forth
38 in section 1I of chapter 69

39 SECTION 5. Section 1C of chapter 71 of the General Laws, as appearing in the 2010
40 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

41 Each school shall conduct, in cooperation with parents and teachers on the school
42 advisory council, at least one workshop annually for parents and teachers on effective strategies
43 for involving parents in the education of their child and parental involvement in the education of
44 at-risk students. Each school district shall provide a model or guidance to its schools on carrying
45 out the workshops, including, but not limited to, guidance on topics to be covered, outside parties
46 who may be available to assist in the workshops, and strategies to involve parents with economic
47 or linguistic barriers to full participation in the school community.

48 SECTION 6. Section 37H of chapter 71 of the General Laws, as appearing in the 2010
49 Official Edition, is hereby amended by striking out the first sentence in the third paragraph and
50 inserting in place thereof the following sentence:- In each school building containing any of the
51 grades six to twelve, inclusive, the principal, in consultation with the school council, shall
52 prepare and distribute to each student in grades six to twelve, inclusive, a student handbook
53 setting forth the rules pertaining to the conduct of students.

54 SECTION 7. Said section 37H, as so appearing, is hereby further amended by striking
55 out paragraph (e) and inserting in place thereof the following sentences:- Any school district that
56 expels a student under the provisions of this section shall continue to provide educational
57 services to the student during the period of expulsion, as provided in section 21 of chapter 76. If
58 the student moves to another district during the period of expulsion, the new district of residence
59 shall either admit the student to its schools or provide educational services to the student under
60 an education service plan, as provided in section 21 of chapter 76.

61 SECTION 8. Section 37H $\frac{1}{2}$ of Chapter 71 of the General Laws, as appearing in the 2010
62 Official Edition, is hereby amended by striking out the last paragraph and inserting in place
63 thereof the following sentences:- Any school district that expels a student under the provisions of
64 this section shall continue to provide educational services to the student during the period of
65 expulsion, as provided in section 21 of chapter 76. If the student moves to another district during
66 the period of expulsion, the new district of residence shall either admit the student to its schools
67 or provide educational services to the student under an education service plan, as provided in
68 section 21 of chapter 76.

69 SECTION 9. Chapter 71 of the General Laws, as appearing in the 2010 Official Edition,
70 is hereby amended by inserting after section 37H $\frac{1}{2}$ the following section:-

71 Section 37H $\frac{3}{4}$. Other suspensions and expulsions.

72 This section regulates the suspension and expulsion of students enrolled in a public
73 school in the commonwealth who are not charged with a violation of paragraph (a) or (b) of
74 Section 37H or with a felony in accordance with Section 37H $\frac{1}{2}$.

75 (1) For any suspension or expulsion under this section, the principal or headmaster of a
76 school in which the student is enrolled, or his or her designee, shall provide, to the student and to
77 the parent or guardian of the student, a written notification of the charges and the reasons for the
78 suspension or expulsion in English and in the primary language of the home. The student shall
79 receive the written notification and shall have the opportunity to meet with the principal or
80 headmaster, or his or her designee, to discuss the charges and reasons for suspension or
81 expulsion prior to the suspension or expulsion taking effect. The principal or headmaster, or his
82 or her designee, shall also make reasonable efforts to include the parent or guardian of the
83 student in the meeting. If a decision is made to suspend or expel the student after the meeting, the
84 principal or headmaster, or his or her designee, shall update the notification of the reasons for the
85 suspension or expulsion to reflect the meeting with the student. If a student has been suspended
86 or expelled from school for more than 10 school days for a single infraction or for more than 10
87 school days cumulatively for multiple infractions in any school year, the student and the parent
88 or guardian of the student shall also receive, at the time of the suspension or expulsion decision,
89 written notification of a right to appeal and the process for appealing the suspension or expulsion
90 in English and in the primary language of the home; provided, however, that the suspension or
91 expulsion shall remain in effect prior to any appeal hearing. The principal or headmaster shall
92 notify the superintendent in writing, including, but not limited to, by electronic means, of any
93 out-of-school suspension imposed on a student enrolled in kindergarten through grade 3 prior to
94 such suspension taking effect. Such notification shall describe the student's alleged misconduct
95 and the reasons for suspending the student out-of-school. For the purposes of this section, the
96 term "out-of-school suspension" shall mean a disciplinary action imposed by school officials to
97 remove a student from participation in school activities for 1 day or more.

98 A student who has been suspended or expelled from school for more than 10 school days
99 for a single infraction or for more than 10 school days cumulatively for multiple infractions in
100 any school year shall have the right to appeal the suspension or expulsion to the superintendent.
101 The student or his or her parent or guardian shall notify the superintendent in writing of a request
102 for an appeal no later than 5 calendar days following the effective date of the suspension or
103 expulsion; provided that a student and his or her parent or guardian may request, and if so
104 requested, shall be granted an extension of up to 7 calendar days. The superintendent or his or
105 her designee shall hold a hearing with the student and his or her parent or guardian within 3
106 calendar days of the student's request for an appeal; provided that a student or his or her parent
107 or guardian may request and, if so requested, shall be granted an extension of up to 7 calendar
108 days; provided, further, that the superintendent, or his or her designee, may proceed with a
109 hearing without a parent or guardian if the superintendent, or his or her designee, makes a good
110 faith effort to include the parent or guardian. At the hearing, the student shall have the right to
111 present oral and written testimony, cross-examine witnesses, and shall have the right to counsel.
112 The superintendent shall render a decision on the appeal in writing within 5 calendar days of the
113 hearing. Such decision shall be the final decision of the city, town or regional school district with
114 regard to the suspension or expulsion.

115 (2) Under this section, no student shall be suspended or expelled from a school or school
116 district for a time period that exceeds 180 school days, beginning the first day the student is
117 removed from an assigned school building.

118 (3) Any principal, headmaster, superintendent, or or other person acting as a decision-
119 maker at a student meeting or hearing, when deciding the consequences for the student, shall
120 exercise discretion; consider ways to re-engage the student in the learning process; and avoid
121 using expulsion as a consequence until other remedies and consequences have been employed.

122 (4) Districts shall report to the department of elementary and secondary education the
123 specific reasons for all suspensions and expulsions, regardless of duration or type. The
124 department of elementary and secondary education shall use its existing data collection tools to
125 obtain this information from districts, and shall modify those tools, as necessary, to obtain the
126 information. On an annual basis, the department of elementary and secondary education shall
127 make district-level de-identified data and analysis, including the total number of days each
128 student is excluded during the school year, available to the public online in a machine readable
129 format.

130 SECTION 10. Section 1 of chapter 76 of the General Laws, as so appearing, is hereby
131 amended by striking out, in lines 2 to 13, inclusive, the words "by the board of education, except
132 a child between fourteen and sixteen who meets the requirements for the completion of the sixth
133 grade of the public school as established by said board and who holds a permit for employment
134 in private domestic service or service on a farm, under section eighty-six of chapter one hundred
135 and forty-nine, and is regularly employed there under for at least six hours per day, or a child

136 between fourteen and sixteen who meets said requirements and has the written permission of the
137 superintendent of schools of the town where he resides to engage in non-wage-earning
138 employment at home, or a child over fourteen who holds a permit for employment in a
139 cooperating employment, as provided in said section eighty-six.”.

140 SECTION 11. Said section 1, as so appearing, is hereby further amended by striking out,
141 in line 14, the word “said” and inserting in place thereof the word:- his.

142 SECTION 12. Said section 1, as so appearing, is hereby further amended by inserting, at
143 the end of the third paragraph, the following new words:-

144 ; provided that no student, regardless of age, shall face criminal liability or be subject to
145 criminal penalties for failure to attend school through the mandatory age for school attendance

146 SECTION 13. Said section 1, as so appearing, is hereby further amended by striking out
147 the fourth paragraph.

148 SECTION 14. Said chapter 76 is hereby further amended by adding after section 1A the
149 following new section:-

150 Section 1B. The school committee of each city, town or regional school district shall have
151 a pupil absence notification program in each of its schools. The program shall be designed to
152 ensure that each school notifies a parent or guardian of his child’s absence if the school has not
153 received notification of the absence from the parent or guardian within three days of said
154 absence.

155 Each school committee shall have a policy of notifying the parent or guardian of a
156 student who has at least 5 days in which he or she has missed 2 or more periods unexcused in a
157 school year or who has missed 5 or more school days unexcused in a school year, whichever is
158 less. The notification policy shall require that the school principal or his designee make a
159 reasonable effort to meet with the parent or guardian of a student who has 5 or more unexcused
160 absences to develop action steps for student attendance. The action steps shall be developed
161 jointly and agreed upon by the school principal or his designee, the student, and the student’s
162 parent or guardian, and with input from other relevant school personnel and officials from
163 relevant public safety, health and human service, housing and nonprofit agencies.

164 SECTION 15. Section 18 of said chapter 76, as so appearing, is hereby amended by
165 striking out the first paragraph and inserting in place thereof the following new paragraphs:-

166 No student who has not graduated from high school shall be considered to have
167 permanently left public school unless an administrator of the school which such student last
168 attended has sent notice within a period of 5 days from the student’s tenth consecutive absence to
169 the student and the parent or guardian of such student in both the primary language of such
170 parent or guardian, to the extent practicable, and English. The notice shall initially offer at least

171 two dates and times for an exit interview between the superintendent or his designee and the
172 student and his parent or guardian to occur prior to the student permanently leaving school and
173 shall include contact information for scheduling the interview. The notice shall indicate that the
174 parties shall agree upon a date and time for any such interview and hold any such interview
175 within 10 days after the sending of the notice. The time for said exit interview may be extended
176 at the request of the parent or guardian, provided no extension shall be for longer than 14 days.
177 The superintendent, or his or her designee, may proceed with any such interview without a
178 parent or guardian if the superintendent, or his or her designee, makes a good faith effort to
179 include the parent or guardian. The exit interview shall be for the purpose of discussing the
180 reasons for the student permanently leaving school and to consider alternative education or other
181 placements.

182 The superintendent or his designee shall convene a team of school personnel, such as the
183 principal, guidance counselor, teachers, attendance officer and other relevant school staff, to
184 participate in the exit interview with the student and his parent or guardian. During the exit
185 interview, the student shall be given information about the detrimental effects of early
186 withdrawal from school, the benefits of earning a high school diploma and the alternative
187 education programs and services available to the student.

188 The department of elementary and secondary education shall: (i) publish a model
189 protocol for conducting exit interviews with students and parents and guardians of students; and
190 (ii) compile and maintain a list of research and information relative to the consequences of
191 dropping out, the benefits of earning a high school diploma and a list of alternative education
192 resources and programs available to the student, in addition to those that the district may provide,
193 that schools shall present at the exit interview.

194 SECTION 16. Said section 18, as so appearing, is hereby further amended by striking
195 out, in line 17, the word “sixteen” and inserting in place thereof the following word:- eighteen.

196 SECTION 17. Said chapter 76, as so appearing, is hereby further amended by inserting
197 after section 20 the following sections:-

198 Section 21. Principals shall ensure that students who are suspended from school for 10 or
199 fewer consecutive days, whether in or out of school, shall have an opportunity to make academic
200 progress during the period of their suspension, to make up assignments and earn credits missed,
201 including, but not limited to, homework, quizzes, exams, papers, and projects missed. Principals
202 shall develop a school-wide education service plan for all students who are expelled or
203 suspended from school for more than 10 consecutive school days, whether in or out of school.
204 Principals shall ensure these students have an opportunity to make academic progress during the
205 period of their suspension or expulsion, to make up assignments and earn credits missed,
206 including, but not limited to, homework, quizzes exams, papers, and projects missed. Education
207 service plans may include, but are not limited to, tutoring, alternative placement, Saturday

208 school, and online or distance learning. In developing the education service plan, principals may
209 seek the cooperation or input of relevant public safety, health and human service, housing and
210 nonprofit agencies, and other service providers. Any school or school district that expels a
211 student or suspends a student for more than 10 consecutive school days shall provide the student
212 and his or her parent or guardian with a list of alternative educational services. Upon selection of
213 an alternative educational service by the student and his or her parent or guardian, the school or
214 school district shall facilitate and verify enrollment in said service. Students exempt from
215 attending school under section 1 of chapter 76 shall not be subject to this provision.

216 Instructional costs associated with implementing an education service plan pursuant to
217 this section shall be eligible for reimbursement under section 5A of chapter 71B, subject to
218 appropriation. Said reimbursements shall be in addition to amounts distributed pursuant to
219 chapter 70 and shall not be included in the calculation of base aid, as defined in said chapter 70,
220 for any subsequent fiscal year. Instructional costs eligible for reimbursement shall include only
221 those costs directly attributable to providing alternative educational services under an education
222 service plan, such as salary of educational personnel, salary of related services personnel, costs
223 for specialized books, materials, or equipment, tuition costs, if the student is receiving services
224 from other than the local public school, consultant costs if directly attributable to the student's
225 instructional program, and instructional costs of extended day or year services if such services
226 are a part of the education service plan. Such costs shall be prorated as appropriate to reflect
227 group activities or costs for part time services. Instructional costs shall not include transportation
228 costs, administrative or overhead costs, the costs of adapting classrooms or materials that are
229 used by more than one student, the costs of fringe benefits of personnel employed by the school
230 district, nor the costs associated with the development of the education service plan, or service
231 coordination for the student. Instructional costs associated with an education service plan shall be
232 reported to and approved by the department, and shall be reimbursed according to the formula
233 and procedures set forth in section 5A of chapter 71B.

234 Section 22. Massachusetts Graduation Coach Initiative.

235 As used in this section, the following term shall have the following meaning:

236 "Students-at-risk of dropping out of school" are any students deemed borderline, high
237 risk, or very high risk, or students that fall under corresponding risk levels in any successor
238 system, according to the early warning indicator index system used by the department of
239 elementary and secondary education, or any successor data collection and tracking system, as set
240 forth in section 1I of chapter 69. For purposes of this act, "students at-risk of dropping out of
241 school" may also be referred to as "at-risk students."

242 The Massachusetts graduation coach initiative shall match at-risk students in grades 7
243 through 12 who attend schools that qualify for a graduation coach under this section with
244 graduation coaches who will monitor the students' attendance and provide advice and

245 intervention services, or connection to intervention services, such as, but not limited to, peer
246 tutoring, credit recovery, and academic remediation. Graduation coaches shall leverage the
247 resources and assistance of community organizations working successfully in the field of dropout
248 intervention and recovery. Graduation coaches shall ensure successful transition of at-risk
249 students from middle school to high school, connecting these students with the students' new
250 school.

251 The department of elementary and secondary education shall provide resources for
252 districts to hire and place graduation coaches in every public middle school and high school that,
253 for a high school, has a total annual dropout rate of 10% or more and that, for grades 7 and 8, has
254 a total annual incidence of at-risk students of 10% or more in those grades; provided, however,
255 that a district shall not receive resources for a school with fewer than 20 students who fall into
256 the foregoing categories. The department of elementary and secondary education shall
257 promulgate regulations that set forth an appropriate trigger for graduation coach resources for
258 schools with disproportionate dropout rates and incidences of at-risk students for demographic
259 subgroups. The department of elementary and secondary education shall also promulgate
260 regulations as to an appropriate coach to student ratio, by which to guide placement of coaches in
261 the respective schools. Districts that share graduation coaches shall develop an interagency
262 services agreement that sets forth such issues as hiring, oversight and supervision, and payment.
263 The department of elementary and secondary education shall promulgate regulations on what the
264 agreement shall cover. Nothing herein shall prohibit a school district or districts from partnering
265 with an external nonprofit agency with experience and proven results in youth development to
266 staff a graduation coach in a qualifying school or schools. The department of elementary and
267 secondary may establish regulations setting forth criteria for qualifying agencies.

268 The department of elementary and secondary education shall establish employment
269 qualifications and program design criteria with which districts must comply as a condition of
270 receiving funding through the Massachusetts graduation coach initiative; provided that
271 graduation coaches shall meet employment qualifications equal to or greater than minimum state
272 employment qualifications and shall hold at least a four year bachelor's degree from an
273 accredited institution. Candidates for employment as a graduation coach also shall have some
274 past experience working effectively with youth. Districts that meet these conditions shall have
275 the authority to hire and place graduation coaches in qualifying schools. The department of
276 elementary and secondary education may provide a standardized orientation to graduation
277 coaches. The responsibilities of graduation coaches shall include, but not be limited to, the
278 following: identifying at-risk students; implementing school wide support interventions;
279 motivating students to focus on a graduation plan; negotiating extra help for at-risk students;
280 providing academic advice and student support; developing effective transition programs to aid
281 at-risk students moving between schools; connecting parents of at-risk students with appropriate
282 school and community resources; connecting at-risk students with school and community
283 resources; encouraging parent and community involvement; assisting in the reenrollment of

284 students who recently left school; and identifying and addressing barriers to learning resulting
285 from specific risk factors. Districts with high numbers of dropouts may choose to focus the
286 responsibilities of a coach on outreach and re-engagement of dropouts and students with five or
287 more absences unexcused.

288 Each school district shall provide the graduation coach with professional development
289 opportunities and administrative and technical support in concert with existing district
290 professional development and administrative and technical support services for district staff.
291 School districts may partner together to provide professional development opportunities and
292 administrative and technical support services. The professional development and support
293 services shall include guidance for graduation coaches on how to best integrate their work with
294 the efforts of school counselors and school social workers in the schools and districts in which
295 they are placed so as to achieve efficient and effective provision of services and to avoid
296 duplication of work. School districts and school administrators shall consider existing needs and
297 programs when determining the placement of individual coaches. The department of elementary
298 and secondary education may coordinate and lead annual regional meetings to allow graduation
299 coaches to network and share best practices, strategies, and problem solving methods.

300 The graduation coach shall develop and implement an individualized family engagement
301 plan for at-risk students to identify and support practical strategies for strong family involvement
302 in the student's academic life and in the student's school community. The graduation coach shall
303 convene and develop the plan jointly with the student; his or her parent or guardian or any other
304 family member or caretaker involved in the student's academic life; and a representative of the
305 student's school, which may include, but not be limited to, a general education teacher serving
306 the student, a special education teacher serving the student, or a member of the school's
307 administrative team. The individualized family engagement plan shall describe each of the
308 aforementioned parties' responsibilities and expectations for supporting the student's educational
309 progress and shall be signed by the parties. The individualized family engagement plan may be
310 developed in conjunction with or as part of an individual student success plan or an
311 individualized education plan; provided, however, that the individualized family engagement
312 plan, as required under this section, must be clearly and separately delineated.

313 SECTION 18. The department of elementary and secondary education shall track and
314 study the impact on levels of parent engagement and academic success of students in an
315 employer-sponsored pilot program that provides paid leave for employees to participate in
316 academic activities. Any employer in the Commonwealth shall be eligible for the pilot program
317 and, if interested, shall inform the department of elementary and secondary education of its intent
318 to participate in the pilot program. The department shall commence said pilot program upon the
319 availability of a statistically significant number of employer and potential employee participants.
320 Prior to implementation of a program, the department of elementary and secondary education
321 and the employer shall enter into an agreement to outline the terms of the program and the
322 department's study. The agreement shall specify the amount of time, on an annualized basis, to

323 be offered to employees and any limitations or conditions on the use of time, including, but not
324 limited to, requirements for notice, limitations in cases of emergency, and rules for evidence of
325 attendance at an academic activity. The agreement shall also specify the length of time that the
326 program shall run and shall outline the data reporting and collection responsibilities of each
327 party. The agreement shall include a statement that it shall be unlawful for an employer to
328 discharge or discriminate against an employee for taking leave under the program. The
329 department of elementary and secondary education shall report the results and findings of the
330 study to the clerks of the House of Representatives and the Senate within six months of
331 completion of the study or at the conclusion of the second year of the study, whichever is less,
332 who shall convey the results and findings to the chairs of the joint committee on education and
333 the chairs of the joint committee on labor and workforce development.

334 SECTION 19. Chapter 741 of the Acts of 1965 is hereby repealed.

335 SECTION 20. Section 2 shall be effective as of September 1, 2014. From September 1,
336 2013 until August 31, 2014, all children under the age of 17 shall be required to attend school if
337 they have not graduated from high school.

338 SECTION 21. Section 3 shall apply commencing the academic school year beginning
339 2012.

340 SECTION 22. In Section 15, proposed section 22 of chapter 76 of the General Laws, as
341 appearing in the 2010 Official Edition, shall apply commencing the academic school year
342 beginning 2013.