SENATE DOCKET, NO. 378 FILED ON: 1/16/2013

SENATE . . . . . No. 268

The Commonwealth of Massachusetts

PRESENTED BY:

***Karen E. Spilka*, (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 interrupting the school to prison pipeline.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bill Robinson	*P.O. Box 320128* *West Roxbury, MA 02132*

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By Ms. Spilka (by request), a petition (accompanied by bill, Senate, No. 268) of Bill Robinson for legislation to interrupt the school to prison pipeline. Education.

The Commonwealth of Massachusetts

An Act interrupting the school to prison pipeline.

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. Whereas, the black community is still in a dark place, with respect to education, because "The School To Prison Pipeline" has had a long and devastating affect in criminalizing our youth before they reach leadership age. This situation also impacts ethnic subgroups, the underserved and protected classes, and it continues to worsen; and,

Whereas, school extreme policies and practices that affect students of color with the oppressive zero tolerance movement involving disciplining them for disruptive non-violent conduct offenses, disturbing the peace and instituting school-based arrests under vague offense categories, such as misbehavior and being disrespectful and then relying on law enforcement and the courts to impose punishments that needlessly remove students from school. 76% of all referrals have been for misdemeanor offenses; and,

Whereas, adult faculty members are using their imbalance of power advantage to apply arbitrary and inconsistent discipline against students and this discipline is in violation of the student's Code of Conduct rules; and,

Whereas, police find calls by teachers for miscellaneous, trivial discipline matters as typically unnecessary for their involvement, and view these and other catchall categories as teachers wanting punishment for misbehavior to help manage their classrooms. This has contributed to suspensions and expulsions of blacks students that involve them in the justice system at a highly disproportionate rate of 3.5 times the rate of white youth; and,

Whereas, restraints by law enforcement, in some cases, have expanded into physical assaults situations and is contributing to the well-documented disproportionate racial disparities of detentions where underserved families have limited resources to launch the defensive process needed to protect their families once they are involve with the criminal justice system; and,

23 Whereas, the combined endeavors of schools and law enforcement in conducting "School
24 To Prison Pipeline" policies and practices are advancing toward institutionalized "Bullying"
25 when their behavior is correlated with the definitions in the M.G. L., CMR and Title 6 statutes;
26 and,

27 Whereas, it is helpful that on Thursday, July 21, 2011, the United States Department of
28 Justice, Office of Public Affairs released statement 11-951 from Attorney General Holder and
29 Secretary Duncan calling for an "Effort to Respond to School-to-Prison Pipeline by Supporting
30 Good Discipline Practices" has brought more attention to preventing school-base arrests with
31 respect to the misapplication of school policies and practices in the disciplining of students, but
32 more must be done; and,

33 Whereas, it is helpful that the United States Congress has begun Dignity in Schools
34 hearings on "Ending the School-to-Prison Pipeline" with Chairman Richard Durbin, D-Ill.
35 presiding, but more has to be done at the state level; and,

36 Whereas, it is helpful that the recently passage of Chapter 222, the student discipline and
37 school removal bill, will improve the level of fairness not defined in Section 37H ½ of Chapter
38 71 as well as reduce the devastating impact on "School To Prison Pipeline" school-based arrest
39 victims. Chapter 222, when implemented, will create a Code of Conduct or Code of Ethics for
40 Massachusetts teachers and other staff to promote positive interactions between teachers,
41 students, parents, staff and administrators to culturally respond to activities and to make
42 appropriate judgments about behavior and cultural differences, thus contributing to reducing a
43 sense of helplessness for students and families, but schools need to do more, and,

44 Whereas, it is helpful that the new Massachusetts public schools fingerprinting law will
45 assist the Department of Elementary and Secondary Education in looking into allegations of
46 misconduct by teachers, but Law Enforcement should do more; and,

47 Whereas, as the "The School To Prison Pipeline" problem increases the use of secured
48 detention that marginalize our most at-risk youth by denying them access to education, the state
49 is missing an opportunity to make improvements in areas of overall learning. The national
50 education rating reports indicate that when more students' stay in schools, the state's nationally
51 rated category positions may also improve. Although Massachusetts is rated in 1st place in
52 standards, there is a disconnect in other areas:

53 - Minority access to good schools is at a low performance rate of 27%

54 - Is in 32nd position in nation on black graduations

55 - Has a graduation rate gap of a 26% between white and black males

56 and,

57 Whereas, interrupting "The School To Prison Pipeline" can be accommodated
58 procedurally using the framework of the Massachusetts' Bullying Bill Law so that additional
59 funding and staffing of non-school related activities, functions, or programs is not required. The
60 data that is needed to be collected is already mandated by existing M.G.L. and CMR statues so it
61 can be reviewed and analyzed; and,

62 Whereas, the mandated Bullying Prevention Intervention Plans that the schools
63 developed individually are not uniform across the state. What is common to those plans is they
64 do not address all aspects of the "Hostile Environment" conditions within the institutions and
65 must be examined for the purpose of organization and supplementation to include support to
66 interrupt "The School To Prison Pipeline" with an administrator reminder reinforcement that has
67 its own entry in the Superintendent's Checklist.

68 Therefore, the following amendments to Massachusetts General Laws, so it will be
69 aligned and supportive of existing Code of Massachusetts Regulations 603, and be consistent
70 with newly passed Chapter 222 of the Acts of 2012 and specifically to the current
71 implementation of the Bullying Bill should be adopted to stop the "The School To Prison
72 Pipeline" affect imposed by disciplinarian on students in violation of the student's Code of
73 Conduct rules that is criminalizing our youth.

74 SECTION 2. Section 37O of Chapter 71 as appearing in the 2008 Official Edition of the
75 General Laws is hereby amended by adding after the paragraph defining the "Hostile
76 Environment" the following new definition.

77 "Institutionalized-bullying", the inappropriate use of educational policies and practices
78 that are arbitrary and inconsistent disciplines, and these disciplines are in violation of the
79 student's Code of Conduct rules and the actions of the disciplinarian results in involving law
80 enforcement in school-based arrests of students on school grounds. The arbitrary and
81 inconsistent discipline that is in violation of the student's Code of Conduct rules that results in
82 arrests are for vague non-violent offenses, such as disturbing the peace, misbehavior,
83 disrespectful, disruptive conduct and other catchall categories of miscellaneous trivial
84 misdemeanors that contribute to (I) suspensions and expulsions; (II) court impose punishments;
85 (III) needlessly remove of students from school; (IV) referral to alternative schools; and (V)
86 correlate with the definition of "Hostile Environment" conditions by adults in disciplining
87 students."

88 SECTION 3. Section 37O of Chapter 71 as appearing in the 2008 Official Edition of the
89 General Laws is hereby amended by adding after the word "cyber-bullying" in line 72 the
90 following words:-

91 the following words:-", Institutionalized-bullying"

92 SECTION 4. Section 37O of Chapter 71 as so appearing, is hereby amended by removing
93 after the word “action;” in line 91 the following:-“ and”

94 SECTION 5. Section 37O of Chapter 71 as so appearing, is hereby amended by adding
95 after the word “students” in line 92 the following words:-“; and (ix) the misapplication of school
96 discipline, which involves law enforcement, resulting in school-based arrest of a student on
97 school grounds, shall be subject to disciplinary action as prescribed in student safety policies and
98 regulations.”

99 SECTION 6. The Department of Elementary and Secondary Education shall promulgate
100 existing regulations to do the following:

101 “Establish reporting requirements for school-based arrests that similar to the ones used
102 for physical restraint.

103 Establish notice to parent’s requirements for school-based arrests that similar to the ones
104 used for physical restraint.

105 Establish notice to law enforcement agency procedures, as a process for informal
106 communications, to establish agreements that will avoid school-based arrests for misapplication
107 of zero-tolerance school policies and practices that are applied arbitrarily and inconsistently in
108 violation of the student’s Code of Conduct rules that are established in the school district(s), such
109 as in the disciplining of students that are being punished for disturbing the peace, misbehavior,
110 disrespectful, disruptive conduct and other catchall categories of miscellaneous trivial
111 misdemeanors.

112 Establish a bi-annual reminder entry in the Superintendent’s Checklist to notify faculty of
113 the inherent problems with the misapplication of school policies and practices in the disciplining
114 of students.