

**SENATE . . . . . No. 672**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Harriette L. Chandler*

*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 sentencing of children .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Harriette L. Chandler</i>	<input type="checkbox"/> [District] <input type="checkbox"/>
<i>Cynthia S. Creem</i>	<input type="checkbox"/> [District] <input type="checkbox"/>
<i>Patricia D. Jehlen</i>	<input type="checkbox"/> [District] <input type="checkbox"/>
<i>Karen E. Spilka</i>	<input type="checkbox"/> [District] <input type="checkbox"/>
<i>Jason M. Lewis</i>	31st Middlesex

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By Ms. Chandler, a petition (accompanied by bill, Senate, No. 672) of Harriette L. Chandler, Cynthia S. Creem, Patricia D. Jehlen, Karen E. Spilka and others for legislation to sentence children. The Judiciary.

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The Commonwealth of Massachusetts

An Act relative to the sentencing 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. Paragraph 2 of section 4 of chapter 27 of the General Laws, as appearing in  
2 the 2008 Official Edition, is hereby amended by inserting after the third sentence the following  
3 new sentence:- At least one person on said list shall be a professional with not less than five  
4 years of experience and training in adolescent development and psychology, and shall be  
5 selected from a list of proposed nominees provided by the following organizations: the  
6 Massachusetts chapter of the American Academy of Pediatrics; the New England Council of  
7 Child and Adolescent Psychiatry, Inc.; the Massachusetts Psychological Association, Inc.; the  
8 MA Psychiatric Society, and the Committee for Public Counsel Services.

9 SECTION 2. Paragraphs 1 and 2 of Section 72B of chapter 119 of the General Laws, as  
10 appearing in the 2008 Official Edition, are hereby amended by striking out said paragraphs and  
11 inserting in place thereof the following new paragraphs:

12 Notwithstanding the provisions of section two of chapter two hundred and sixty-five, if a  
13 person is found guilty of murder in the first degree committed on or after his fourteenth birthday  
14 and before his eighteenth birthday, the superior court shall commit the person to imprisonment in  
15 a state prison for life. Said person shall be eligible for parole under section one hundred and  
16 thirty-three A of chapter one hundred and twenty-seven when such person has served fifteen  
17 years of said confinement. Thereafter said person shall be subject to the provisions of law  
18 governing the granting of parole permits by the parole board.

19 Notwithstanding the provisions of section two of chapter two hundred and sixty-five, if a  
20 person is found guilty of murder in the second degree committed on or after his fourteenth  
21 birthday and before his eighteenth birthday, the superior court shall commit the person to  
22 imprisonment in a state prison for life. Said person shall be eligible for parole under section one  
23 hundred and thirty-three A of chapter one hundred and twenty-seven when such person has

24 served fifteen years of said confinement. Thereafter said person shall be subject to the provisions  
25 of law governing the granting of parole permits by the parole board.

26 SECTION 3. Section 72B of said chapter 119, as so appearing, is hereby further  
27 amended by striking out paragraph 4 and inserting in place thereof the following new paragraph:

28 A person who is found guilty of murder in the first or second degree and is sentenced to a  
29 state prison but who has not yet reached his eighteenth birthday shall be held in a youthful  
30 offender unit separate from the general population of adult prisoners; provided, however, that  
31 such person shall be classified at a facility other than the reception and diagnostic center at the  
32 Massachusetts Correctional Institution, Concord, and shall not be held at the Massachusetts  
33 Correctional Institution, Cedar Junction, prior to his eighteenth birthday.

34 SECTION 4. Paragraph one of section 133A of chapter 127 of the General Laws, as  
35 appearing in the 2008 Official Edition, is hereby amended by striking out said paragraph and  
36 inserting in place thereof the following new paragraph:

37 Section 133A. Notwithstanding the provisions of section two of chapter two hundred and  
38 sixty-five, every prisoner who is serving a sentence for life in a correctional institution of the  
39 commonwealth, except prisoners confined to the hospital at the Massachusetts Correctional  
40 Institution, Bridgewater, and except prisoners serving a life sentence for murder in the first  
41 degree who committed such offense on or after their eighteenth birthday, shall be eligible for  
42 parole, and the parole board shall, within sixty days before the expiration of fifteen years of such  
43 sentence, conduct a public hearing before the full membership unless a member of the board is  
44 determined to be unavailable as provided in this section. For the purposes of this section, the  
45 term unavailable shall mean that a board member has a conflict of interest to the extent that he  
46 cannot render a fair and impartial decision or that the appearance of a board member would be  
47 unduly burdensome because of illness, incapacitation, or other circumstance. Whether a member  
48 is unavailable for the purposes of this section shall be determined by the chair. Board members  
49 shall appear unless said chair determines them to be unavailable. Under no circumstances shall a  
50 parole hearing proceed pursuant to this section unless a majority of the board is present at the  
51 public hearing. Unless a board member is unavailable due to a conflict of interest, any board  
52 member who was not present at the public hearing shall review the record of the public hearing  
53 and shall vote in the matter.

54 SECTION 5. Section 133C of said chapter 127, as so appearing, is hereby amended by  
55 inserting after the words, "except prisoners serving a life sentence for murder in the first degree"  
56 and before the words, "and prisoners" the following: who committed such offense on or after  
57 their eighteenth birthday,

58 SECTION 6. Notwithstanding the provisions of section two of chapter two hundred and  
59 sixty-five or section 133A of chapter 127 of the General Laws, or any other general or special  
60 law to the contrary, a person serving a life sentence for murder in the first degree as of the

61 effective date of this act who committed such offense before his eighteenth birthday shall be  
62 eligible for parole under section one hundred and thirty-three A of chapter one hundred and  
63 twenty-seven when such person has served fifteen years of said confinement.

64           SECTION 7. This act shall take effect upon its passage.