

**HOUSE . . . . . No. 428**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

**Bradford R. Hill**  
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*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 bill:

An Act relative to bullying in schools.

\_\_\_\_\_  
PETITION OF:

NAME:

Bradford R. Hill

DISTRICT/ADDRESS:

4th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 454 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
\_\_\_\_\_

### AN ACT RELATIVE TO BULLYING IN SCHOOLS.

*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 I – Legislative Findings

2           The Legislature finds that a safe and civil environment in school is necessary for students to learn and  
3           achieve high academic standards. The Legislature finds that harassment, intimidation or bullying, like  
4           other disruptive or violent behavior, is conduct that disrupts both a student’s ability to learn and a  
5           school’s ability to educate its students in a safe, nonthreatening environment.

6           The legislature further finds that students learn by example. The legislature charges school  
7           administrators, faculty, staff and volunteers with demonstrating appropriate behavior, treating others with  
8           civility and respect, and refusing to tolerate harassment, intimidation or bullying.

9           SECTION II – Definitions

10          As used in this article, “harassment, intimidation or bullying” means any intentional gesture or any  
11          intentional written, verbal or physical act or threat that:

- 12           (a)       a reasonable person, under the circumstances, should know would have the effect of:
- 13                   (1)       Harming a student;
- 14                   (2)       Damaging a student’s property;
- 15                   (3)       Placing a student in reasonable fear of harm to his or her person; or
- 16                   (4)       Placing a student in reasonable fear of damage to his or her property; or
- 17           (b)       is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or  
18           abusive educational environment for a student.

19          SECTION III – Policy prohibiting harassment, intimidation or bullying

- 20           (a)       Each county/school board of education shall establish a policy prohibiting harassment,  
21           intimidation or bullying. Each county/school board has control over the content of its  
22           policy as long as the policy contains, at a minimum, the requirements of subdivision (b)

23 of this section. The policy shall be adopted through a process that includes representation  
24 of parents or guardians, school employees, school volunteers, students and community  
25 members.

- 26 (b) Each county/school board policy shall, at a minimum, include the following components:
- 27 (1) A statement prohibiting harassment, intimidation or bullying of any student on  
28 school property, on a school bus or other school-related vehicle, at an official  
29 school bus stop, or at a school-sponsored activity or event whether or not it is  
30 held on school premises;
  - 31 (2) A definition of harassment, intimidation or bullying no less inclusive than that in  
32 section two of this article;
  - 33 (3) A description of the type of behavior expected from each student;
  - 34 (4) Consequences and appropriate remedial action for a person who commits an act  
35 of harassment, intimidation, or bullying;
  - 36 (5) A procedure for reporting an act of harassment, intimidation, or bullying,  
37 including a provision that permits a person to report an act of harassment,  
38 intimidation, or bullying anonymously. However, this subdivision shall not be  
39 construed to permit formal disciplinary action solely based on an anonymous  
40 report;
  - 41 (6) A requirement that school personnel report prohibited incidents of which they are  
42 aware;
  - 43 (7) A procedure for responding to any reported act of harassment, intimidation, or  
44 bullying;
  - 45 (8) A procedure for prompt investigation of reports of violations and complaints,  
46 identifying either the principal or the principal's designee as the person  
47 responsible for the investigation;
  - 48 (9) A requirement that parents or guardians of any student involved in an incident  
49 prohibited pursuant to this article be notified;
  - 50 (10) The range of ways in which a school will respond once an incident of  
51 harassment, intimidation, or bullying is identified and
  - 52 (11) A procedure for documenting any prohibited incident that is reported.
  - 53 (12) A statement that prohibits reprisal or retaliation against any person who reports  
54 an act of harassment, intimidation, or bullying, and the consequences and  
55 appropriate remedial action for a person who engages in that type of reprisal or  
56 retaliation;
  - 57 (13) A strategy for protecting a victim from additional harassment, intimidation or  
58 bullying, and from retaliation following a report;
  - 59 (14) A procedure for counseling students who have been victims or targets of  
60 bullying;
  - 61 (15) Consequences and appropriate remedial action for a person found to have falsely  
62 accused another as a means of retaliation or as a means of harassment,  
63 intimidation, or bullying;
  - 64 (16) A disciplinary or counseling procedure for any student guilty of harassment,  
65 intimidation, or bullying;
  - 66 (17) A requirement that any information relating to a reported incident is confidential,  
67 and exempt from disclosure under the provisions of chapter... of this code and
  - 68 (18) A statement of how the policy is to be publicized including notice that the policy  
69 applies to participation in school-sponsored activities.
- 70 (c) Each county/school board shall adopt the policy and submit a copy to the state  
71 superintendent of schools by the first day of September, in the year which this  
72 legislation takes effect.

73 (d) To assist county/school boards in developing their policies, for the prevention of  
74 harassment, intimidation, or bullying the Department of Education shall develop  
75 a model policy applicable to grades kindergarten through twelfth and post this  
76 policy on their website. The model policy shall be issued by the first day of  
77 December 2005.

78 (e) Notice of the county/school board's policy shall appear in any  
79 student handbooks, and in any county board publication, that sets  
80 forth the comprehensive rules, procedures and standards of  
81 conduct for its schools, and in its pupil handbooks.

82 SECTION IV – Prohibiting reprisal, retaliation, or false accusation

83 (a) A school administrator, employee, pupil, or volunteer shall not  
84 engage in reprisal, retaliation, or false accusation against a victim, witness, or one  
85 with reliable information about an act of harassment, intimidation, or bullying.

86 (b) A school administrator, employee, pupil, or volunteer who has  
87 witnessed, or has reliable information that a student has been subjected to,  
88 harassment, intimidation, or bullying, whether verbal or physical, is encouraged  
89 to report the incident to the appropriate school official designated by the school  
90 district's or public school academy's policy.

91 SECTION V – Immunity

92 A school employee, student or volunteer is individually immune from a  
93 cause of action for damages arising from reporting harassment,  
94 intimidation or bullying, or any failure to remedy the reported harassment,  
95 intimidation or bullying, if that person:

- 96 (1) In good faith promptly reports an incident of harassment, intimidation or  
97 bullying;  
98 (2) Makes the report to the appropriate school official designated by the school  
99 district's or public school academy's policy and  
100 (3) Makes the report in compliance with the procedures as specified in policy  
101 prohibiting harassment, intimidation, or bullying.

102 SECTION VI – Policy training and education

- 103 (a) Schools and county/district school boards are encouraged to form bullying  
104 prevention task forces, programs and other initiatives involving school staff,  
105 students, teachers, administrators, volunteers, parents, law enforcement and  
106 community members.  
107 (b) Each county/district board or public school academy shall do all of the following:  
108 (1) Provide training on the harassment, intimidation, or bullying policy to school  
109 employees and volunteers who have direct contact with students; and

- 110 (2) Develop a process for educating students on the harassment, intimidation or  
111 bullying policy.  
112 (3) Information regarding the county board policy against harassment, intimidation  
113 or bullying shall be incorporated into each school’s current employee training  
114 program.

115 SECTION VII – Liability

116 Except as provided in section five of this article, nothing in this article prohibits a victim  
117 from seeking redress under any other provision of civil or criminal law. This section  
118 does not create or alter any tort liability.

119 SECTION VIII – Definitions

- 120 (a) “At school” means in a classroom, elsewhere on or immediately adjacent to school  
121 premises, on a school bus or other school-related vehicle, at an official school bus  
122 stop, or at a school-sponsored activity or event whether or not it is held on school  
123 premises.  
124 (b) “Harassment, intimidation, or bullying” means any gesture or written, verbal, or  
125 physical act that a reasonable person under the circumstances should know will have  
126 the effect of harming a pupil or damaging his or her property or placing a pupil in  
127 reasonable fear of harm to his or her person or damage to his or her property, or that  
128 has the effect of insulting or demeaning any pupil or group of pupils in such a way as  
129 to disrupt or interfere with the school’s educational mission or the education of any  
130 pupil. Harassment, intimidation, or bullying includes, but is not limited to, a gesture  
131 or written, verbal, or physical act described in this section that is perceived as being  
132 motivated by the harasser, intimidator, or bully, for any reason, towards any target or  
133 victim.

134 SECTION IX – Accountability to the State Superintendent – Report to Lawmakers

135 Each school district shall report to the superintendent of public instruction by January 31<sup>st</sup>  
136 of each year all incidents, resulting in disciplinary action, involving harassment,  
137 intimidation, or bullying, that result in a short or long-term suspension or expulsion on  
138 school premises or on transportation systems used by schools, in the year preceding the  
139 report. The superintendent shall compile the data and report it to the appropriate  
140 committee of the State House and the State Senate.