

HOUSE No. 483

The Commonwealth of Massachusetts

PRESENTED BY:

John H. Rogers

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 the Prevention of Bullying.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John H. Rogers	12th Norfolk
Frederick E. Berry	
Lori Ehrlich	8th Essex
Ruth B. Balser	12th Middlesex
Matthew C. Patrick	3rd Barnstable
John P. Fresolo	16th Worcester
Kenneth J. Donnelly	Fourth Middlesex
Angelo J. Puppolo, Jr.	12th Hampden
Elizabeth A. Malia	11th Suffolk
Byron Rushing	9th Suffolk
Thomas M. McGee	Third Essex and Middlesex
Jay R. Kaufman	15th Middlesex
Timothy J. Toomey, Jr.	26th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE PREVENTION OF BULLYING.

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. Chapter 71 be amended by inserting after section 37N, the following section 37O.

2 (a) Harassment, Intimidation, Bullying and Cyberbullying, prohibited:

3 (1) No student shall be subjected to harassment, intimidation, bullying, or cyberbullying
4 in any public educational institution,

5 (A) During any education program or activity; or

6 (B) While in school, on school equipment or property, in school vehicles, on
7 school buses, at designated school bus stops, at school-sponsored activities, at
8 school-sanctioned events; or

9 (C) Through the use of data, telephone or computer software that is accessed
10 through a computer, computer system, or computer network of any public
11 educational institution.

12 (2) “Bullying and cyberbullying,” unwelcome written, electronic, verbal or physical acts
13 or gestures where a student feels coerced, intimidated, harassed or threatened and, under
14 the circumstances, may cause: (1) physical or emotional harm to a student, (2) damage to
15 another student’s property, or (3) a disruptive or hostile school environment. The
16 behavior must interfere with a student’s academic performance or ability to learn, or
17 interfere with a student’s ability to participate in or benefit from services, activities, or
18 privileges that are being offered through the school district.

19 (3) As used in this Section, “electronic communication” means any communication
20 through an electronic device including a telephone, cellular phone, computer or pager.

21 (b) School Board Requirements and Responsibilities

22 (1) Each school district shall adopt a policy prohibiting discrimination as defined at section
23 five of chapter seventy-six of the General Laws, harassment, intimidation, bullying and
24 cyberbullying, that includes the definition in this Act.

25 (2) The school district shall involve students, parents, teachers, administrators, school staff,
26 school volunteers, community representatives, and local law enforcement agencies in the
27 process of adopting the policy. The school district policy must be implemented in a manner
28 that is ongoing throughout the school year and integrated with a school's curriculum, a
29 school's discipline policies, and other violence prevention efforts.

30 (3) The policy shall contain, at a minimum, the following components:

31 (A) Notice

- 32 (i) A statement prohibiting discrimination, harassment, intimidation, bullying or
33 cyberbullying of a student, as defined above;
- 34 (ii) A statement prohibiting retaliation or false accusation against a target, witness or
35 one with reliable information about an act of bullying, harassment and
36 intimidation;
- 37 (iii) A requirement that all students are protected regardless of their status under the
38 law;
- 39 (iv) A statement of how the policy is to be publicized, including requirements that:
40 annual written notice of the policy is provided to parents, guardians, staff, volunteers,
41 and students, with age appropriate language for students; the policy is posted
42 throughout all schools in the district, including but not limited to cafeterias, school
43 bulletin boards, administration offices, and the school district's Web site; and the
44 policy is included in all student and employee handbooks;
- 45 (v) A procedure for providing immediate notification to the parents of a victim of
46 discrimination, harassment, intimidation, bullying or cyberbullying and the parents
47 of the perpetrator of discrimination, harassment, intimidation, bullying or
48 cyberbullying;
- 49 (vi) The identification by job title of school officials responsible for ensuring that the
50 policy is implemented.

51 (B) Reporting and Investigations

- 52 (i) A procedure for reporting an act of discrimination, harassment, intimidation,
53 bullying or cyberbullying, including a provision that permits a person to report such
54 act anonymously; no formal disciplinary action shall be taken solely on the basis of
55 an anonymous report;
- 56 (ii) A requirement that any school employee that has reliable information that would
57 lead a reasonable person to suspect that a person is a target of bullying, harassment
58 and intimidation shall immediately report it to the administration;
- 59 (iii) A procedure for each school to document any prohibited incident that is reported
60 and a procedure to report all incidents of discrimination, harassment, intimidation,
61 bullying or cyberbullying and the resulting consequences, including discipline and
62 referrals, to the Department of Elementary & Secondary Education on a semi-annual
63 basis;
- 64 (iv) A procedure for reporting to law enforcement all acts of discrimination,
65 harassment, intimidation, bullying or cyberbullying which may constitute criminal
66 activity.

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68 (v) A procedure for prompt investigation of reports of violations and complaints,
69 identifying either the principal or the principal's designee as the person responsible
70 for the investigation;

71 (C) Remedies and Victim Assistance

72 (i) Consequences and appropriate remedial action for a person who commits an act of
73 discrimination, harassment, intimidation, bullying or cyberbullying;

74 (ii) Consequences and appropriate remedial action for a person found to have falsely
75 accused another as a means of retaliation, reprisal, or as a means of discrimination,
76 harassment, intimidation, bullying or cyberbullying;

77 (iii) A strategy for providing counseling or referral to appropriate services, including
78 guidance, academic intervention, and protection to students, both victims and
79 perpetrators, and appropriate family members, affected by discrimination,
80 harassment, intimidation, bullying or cyberbullying, as necessary;

81 (iv) A requirement that a school employee, school volunteer, student, or parent who
82 promptly reports in good faith an act of discrimination, harassment, intimidation,
83 bullying or cyberbullying to the appropriate school official designated in the school
84 district's policy and who makes this report in compliance with the procedures set forth
85 in the policy is immune from a cause of action for damages arising out of the
86 reporting itself or any failure to remedy the reported incident.

87 (v) A statement that this policy will apply to an electronic communication whether or
88 not this conduct originated on school property and with school equipment so long as:

89 (A) a reasonable person should know, under the circumstances, that the act will
90 have the
91 effect of harming a student or damaging the student's property, or placing a
92 student in reasonable fear of harm to his or her person or damage to his or her
93 property; or

94 (B) has the effect of insulting or demeaning any student or group of students in
95 such a way as to cause substantial disruption in, or substantial interference
96 with, the orderly operation of the school; or

97 (C) the act is directed specifically at students or school personnel and maliciously
98 intended for the purpose of disrupting school.

99 (vi) A statement encouraging public schools and school districts to form bullying
100 prevention task forces, programs, and other initiatives involving school staffs, pupils,
101 administrators, volunteers, parents, law enforcement, community members, and other
102 shareholders.

103 (D) Training and Assessment

104 (i) Annual training for school employees and volunteers who have significant contact
105 with students in preventing, identifying, responding to, and reporting incidents of
106 discrimination, harassment, intimidation, bullying or cyberbullying;

107 (ii) Annual confidential surveys of students which address the current environment at
108 each school, including discrimination, harassment, intimidation, bullying or
109 cyberbullying of students.

110 (c) Department of Elementary & Secondary Education Requirements and Responsibilities

111 The Department of Elementary & Secondary Education shall:

- 112 (1) Develop a model policy and training materials on the components that should be included
113 in any district policy;
- 114 (2) Periodically review school district programs, activities, and services to determine whether
115 the school boards are complying with this statute;
- 116 (3) Compile, in conjunction with the Department of Public Health, the Department of Mental
117 Health and the Attorney General of the Commonwealth, a list of bullying and
118 cyberbullying prevention resources, existing prevention programs, best practices,
119 techniques, and academic-based research consistent with section 370 that shall be made
120 available for use by school districts; such prevention resources, existing prevention
121 programs, best practices, techniques and academic-based research and sample policies to
122 be updated biennially;
- 123 (4) Promulgate a set of guidelines and procedures for defining district reporting requirements
124 for incidents of bullying and cyberbullying;
- 125 (5) Establish and maintain a central repository for the collection and analysis of information
126 regarding discrimination, harassment, intimidation, bullying or cyberbullying as defined
127 in this statute;
- 128 (6) Report to the state legislature annually on the current levels and nature of harassment,
129 intimidation, and bullying in the schools and the effectiveness of school policies under
130 this statute in combating discrimination, harassment, intimidation, bullying or
131 cyberbullying, including recommendations for appropriate actions to address identified
132 problems.

133 **(d) Preclusion**

- 134 (1) This act shall not be interpreted to prevent a victim from seeking redress under any other
135 available law either civil or criminal.
- 136 (2) Nothing in this statute is intended to infringe upon the right of a school employee or
137 student to exercise their right of free speech.

138 **(e) Timetable**

139 School districts must complete and publish a bullying prevention policy in compliance with this
140 section, and incorporate such policies into the district code of conduct as required by section 37H
141 of chapter seventy-one of the General Laws, no later than July 31, 2011.