

HOUSE No. 4567

The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Senate Bill relative to bullying in schools (Senate, No. 2323) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4567. March 18, 2010.

FOR THE COMMITTEE:

NAME:

Charles Murphy

DISTRICT/ADDRESS:

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The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

By striking out all after the enacting clause and inserting in place thereof the following:

1 “SECTION 1. The third paragraph of section 1D of chapter 69 of the General Laws, as appearing
2 in the 2008 Official Edition, is hereby amended by striking out the fourth sentence and inserting
3 in place thereof the following sentence:- The standards may provide for instruction in the issues
4 of nutrition, physical education, AIDS education, violence prevention, including teen dating
5 violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse
6 prevention.

7 SECTION 2. The first paragraph of section 37H of chapter 71 of the General Laws, as so
8 appearing, is hereby amended by inserting after the third sentence the following sentence:- The
9 policies shall also prohibit bullying as defined in section 37O and shall include the student-
10 related sections of the bullying prevention and intervention plan required by said section 37O.

11 SECTION 3. The third paragraph of said section 37H of said chapter 71, as so appearing, is
12 hereby amended by inserting after the first sentence the following sentence:- The student
13 handbook shall include an age-appropriate summary of the student-related sections of the
14 bullying prevention and intervention plan required by section 37O.

15 SECTION 4. Said chapter 71 is hereby further amended by inserting after section 37N the
16 following section:-

17 Section 37O. (a) As used in this section the following words shall, unless the context clearly
18 requires otherwise, have the following meaning:

19 “Bullying”, the repeated use by a perpetrator of a written, verbal or electronic expression, or a
20 physical act or gesture, or any combination thereof, directed at a victim that: (i) causes physical
21 or emotional harm to the victim or damage to the victim’s property; (ii) places the victim in

22 reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile
23 environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v)
24 materially and substantially disrupts the education process or the orderly operation of a school.
25 For the purposes of this section, bullying shall include cyber-bullying.

26 “Charter school”, commonwealth charter schools and Horace Mann charter schools.

27 “Cyber-bullying”, bullying through the use of technology or any electronic communication,
28 which shall include, but shall not be limited to, any transfer of signs, signals, writing, images,
29 sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio,
30 electromagnetic, photo-electronic or photo-optical system, including, but not limited to,
31 electronic mail, internet communications, instant messages or facsimile communications.

32 “Department”, the department of elementary and secondary education.

33 “Hostile environment”, a situation in which bullying causes the school environment to be
34 permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the
35 conditions of the student’s education.

36 “Plan”, a bullying prevention and invention plan established pursuant to subsection (d).

37 “Perpetrator”, a student or students who engage in bullying or retaliation.

38 “School district”, the school department of a city, town, regional school district or county
39 agricultural school.

40 “School grounds”, property on which a school building or facility is located or property that is
41 owned, leased or used by a school district or charter school for a school-sponsored activity,
42 function, program, instruction or training.

43 “Victim”, a student against whom bullying or retaliation has been perpetrated.

44 (b) Bullying shall be prohibited on: (i) school grounds, property immediately adjacent to school
45 grounds, at a school-sponsored or school-related activity, function or program whether on or off
46 school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a
47 district or school, or through the use of technology or an electronic device owned, leased or used

48 by a school district or charter school; (ii) at a location, activity, function or program that is not
49 school-related; and (iii) through the use of technology or an electronic device that is not owned,
50 leased or used by a district or school, if the bullying creates a hostile environment at school for
51 the victim, infringes on the rights of the victim at school or materially and substantially disrupts
52 the education process or the orderly operation of a school.

53 Retaliation against a person who reports bullying, who provides information during an
54 investigation of bullying, or who is a witness to or has reliable information about bullying shall
55 be prohibited.

56 (c) Each school district and charter school shall provide age-appropriate instruction on bullying
57 prevention in each grade that is incorporated into the curriculum of the district or school. The
58 curriculum shall be evidence-based.

59 (d) Each school district and charter school shall develop and update a plan to address bullying
60 prevention and intervention in consultation with teachers, school staff, professional support
61 personnel, school volunteers, administrators, community representatives, local law enforcement
62 agencies, students, parents and guardians. The consultation shall include, without limitation,
63 notice and a public comment period. The plan shall be updated at least biennially.

64 Each plan shall, without limitation, include: (i) descriptions of and statements prohibiting
65 bullying, cyber-bullying and retaliation; (ii) clear procedures for students, staff, parents,
66 guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or
67 retaliation may be made anonymously; provided, however, that no disciplinary action shall be
68 taken against a student solely on the basis of an anonymous report; (iv) clear procedures for
69 promptly responding to and investigating reports of bullying or retaliation; (v) the range of
70 disciplinary actions that may be taken against a perpetrator for bullying or retaliation which
71 balance the need for accountability with the need to teach appropriate behavior; (vi) clear
72 procedures for restoring a sense of safety for a victim and assessing that student's needs for
73 protection; (vii) strategies for protecting from bullying or retaliation a person who reports
74 bullying, provides information during an investigation of bullying or is witness to or has reliable
75 information about an act of bullying; (viii) procedures consistent with state and federal law for
76 promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that

77 the parents or guardians of a victim shall also be notified of the action taken to prevent any
78 further acts of bullying; and provided, further, that said procedures shall provide for immediate
79 notification to the local law enforcement agency where criminal charges may be pursued against
80 the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of
81 bullying shall be subject to disciplinary action; and (x) a strategy for providing counseling or
82 referral to appropriate services for perpetrators and victims and for appropriate family members
83 of said students.

84 A school district or charter school may establish separate discrimination or harassment
85 policies that include categories of students. Nothing in this section shall prevent a school district
86 or charter school from remediating any discrimination or harassment based on a person's
87 membership in a legally protected category under local, state or federal law.

88 The plan may include ongoing professional development to build the skills of all
89 members of school staff including, but not limited to, educators, administrators, school nurses,
90 cafeteria workers, custodians, bus drivers and paraprofessionals, to prevent, identify and respond
91 to bullying. The content of such professional development shall include, without limitation: (i)
92 developmentally appropriate strategies to prevent bullying incidents; (ii) developmentally
93 appropriate strategies for immediate, effective interventions to stop bullying incidents; (iii)
94 information regarding the complex interaction and power differential that can take place between
95 the perpetrator, victim and witnesses to the bullying; (iv) research findings on bullying, including
96 information about specific categories of students who have been shown to be particularly at risk
97 for bullying in the school environment; (v) information on the incidence and nature of cyber-
98 bullying; and (vi) internet safety issues as they relate to cyber-bullying.

99 The plan shall include provisions for informing parents and guardians about the bullying
100 prevention curriculum of the district or school and shall include, but shall not be limited to,
101 information regarding: (i) how parents and guardians can reinforce the curriculum at home and
102 support the district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-
103 bullying.

104 (e)(1) Each school district and charter school shall provide to students and their parents or
105 guardians, in age-appropriate terms and in the languages which are most prevalent among the

106 students, parents and guardians, annual written notice of the relevant student-related sections of
107 the plan.

108 (2) Each school district and charter school shall provide to all school staff annual written notice
109 of the plan. The faculty and staff at each school shall be trained annually on the plan applicable
110 to the school. Relevant sections of the plan relating to the duties of faculty and staff shall be
111 included in a district or school employee handbook.

112 (3) The plan shall be posted on the website of each school district and charter school.

113 (f) Each school principal or the person who holds a comparable role shall be responsible for the
114 implementation and oversight of the plan at that person's school.

115 (g) If an incident of bullying or retaliation involves students from more than one school district
116 or charter school, the district or school first informed of the bullying or retaliation shall, to the
117 extent consistent with state and federal law, promptly notify the appropriate administrator of the
118 other district or school so that both may take appropriate action.

119 (h) Nothing in this section shall supersede or replace existing rights or remedies under any other
120 general or special law, nor shall this section create a private right of action.

121 (i) The department, after consultation with the department of public health, the department of
122 mental health, the attorney general and experts on bullying shall: (i) publish a model plan for
123 school districts and charter schools to consider when creating their own plans; and (ii) compile a
124 list of bullying prevention and intervention resources, evidence-based curricula, best practices
125 and academic-based research that shall be made available for use by schools. These resources
126 may include, print, audio, video or digital media; subscription-based online services; and on-site
127 or technology-enabled professional development and training sessions. The department shall
128 biennially update the model plan and the list of these resources, curricula, best practices and
129 research and shall ensure that they are posted on its website.

130 (j) The department shall promulgate regulations regarding requirements and standards for staff
131 members to report instances of bullying.

132 SECTION 5. Section 3 of chapter 71B of the General Laws, as appearing in the 2008 Official
133 Edition, is hereby amended by inserting after the word “proficiencies”, in line 154, the following
134 words:- ; the skills and proficiencies needed to avoid and respond to bullying, harassment or
135 teasing.

136 SECTION 6. School districts and charter schools shall have a bullying prevention and
137 intervention plan in compliance with this act and shall file the plan with the department of
138 elementary and secondary education not later than December 31, 2010.

139 SECTION 7. The department of elementary and secondary education shall publish guidelines
140 for the implementation of social and emotional learning curricula in kindergarten through grade
141 12 no later than June 30, 2011. The guidelines shall be updated biennially. For purposes of this
142 section, social and emotional learning shall mean the processes through which children acquire
143 the knowledge, attitudes, and skills they need to recognize and manage their emotions,
144 demonstrate caring and concern for others, establish positive relationships, make responsible
145 decisions, and handle challenging social situations constructively.

146 SECTION 8. The department of elementary and secondary education shall periodically review
147 school district and charter school programs, activities and services to determine whether the
148 school committees and charter schools are in compliance with this act.”.