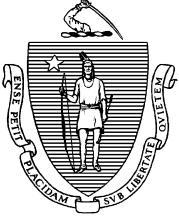


# Senate, No. 2313

[Senate, March 9, 2010 – Substituted by amendment by the Senate (Ways and Means) for Senate, No. 2283]

## The Commonwealth of Massachusetts



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IN THE YEAR OF TWO THOUSAND AND TEN

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### **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 1.** Section 1D of chapter 69 of the General Laws, as appearing in the 2008  
2 Official Edition, is hereby amended by striking out, in lines 30 to 32, inclusive, the following  
3 words “The standards may provide for instruction in the issues of nutrition, physical education,  
4 AIDS education, violence prevention, and drug, alcohol and tobacco abuse prevention.” and  
5 inserting in place thereof the following words:- “The standards may provide for instruction in  
6 the issues of nutrition, physical education, AIDS education, violence prevention, including teen  
7 dating violence, bullying prevention, conflict resolution, and drug, alcohol and tobacco abuse  
8 prevention.”

9           **SECTION 2.** Section 37H of chapter 71 of the General Laws, as so appearing, is hereby  
10 amended by inserting after the word “department” in line 9 the following sentence:- “The  
11 policies shall also prohibit bullying as defined in section 37O and shall include the bullying  
12 prevention and intervention plan required by section 37O.”

13           **SECTION 3.** Said section 37H of said chapter 71, as so appearing, is further amended  
14 by inserting after the word “students” in line 26 the following sentence:- “The student handbook  
15 shall include an age-appropriate summary of the student-related sections of the bullying  
16 prevention and intervention plan required by section 37O.”

17           **SECTION 4.** Said chapter 71 is hereby amended by inserting after section 37N the  
18 following section:-

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

21           “Bullying” means the severe or repeated use by one or more students of a written,  
22 verbal, or electronic expression, or a physical act or gesture, or any combination thereof,  
23 directed at another student that has the effect of: (i) causing physical or emotional harm to the  
24 other student or damage to the other student’s property; (ii) placing the other student in  
25 reasonable fear of harm to himself or of damage to his property; (iii) creating a hostile  
26 environment at school for the other student; (iv) infringing on the rights of the other student at  
27 school; or (v) materially and substantially disrupting the education process or the orderly  
28 operation of a school.

29           “Cyber-bullying” means bullying through the use of technology or any electronic means.  
30 The use of bullying in this section shall include cyber-bullying.

31 “Hostile environment” means a situation in which bullying causes the school  
32 environment to permeate with intimidation, ridicule or insult that is sufficiently severe or  
33 pervasive to alter the conditions of the student’s education and create an abusive school  
34 environment.

35 “Perpetrator” means the student who engages in bullying or retaliation.

36 “School grounds” means property on which a school building or facility is located or  
37 property that is owned, leased or used by a school district, commonwealth charter school or  
38 non-public school for any school-sponsored activities, functions, programs, instruction or  
39 training.

40 “Victim” means the student against whom bullying or retaliation has been perpetrated.

41 (b) Bullying is prohibited on school grounds, property immediately adjacent to school  
42 grounds, at school-sponsored or school-related activities, functions or programs whether on or  
43 off school grounds, at school bus stops, on school buses or other vehicles owned, leased or used  
44 by a district or school, or through the use of technology or an electronic device owned, leased or  
45 used by a school district, commonwealth charter school, or non-public school.

46 Bullying is also prohibited both (i) at a location, activity, function or program that is not  
47 school-related and (ii) through the use of technology or an electronic device that is not owned,  
48 leased or used by a district or school if the act or acts in question create a hostile environment at  
49 school for the victim, infringe on the rights of the victim at school, or materially and  
50 substantially disrupt the education process or the orderly operation of a school.

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

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

57           (d) Each school district, commonwealth charter school and non-public school shall  
58 develop and update a bullying prevention and intervention plan in consultation with teachers,  
59 school staff, professional support personnel, school volunteers, administrators, community  
60 representatives, local law enforcement agencies, students, parents and guardians. The  
61 consultation shall at a minimum include a public comment period. The bullying prevention and  
62 intervention plan shall be updated at least biennially.

63           Each bullying prevention and intervention plan at a minimum shall: (i) include  
64 descriptions of and statements prohibiting bullying, cyber-bullying and retaliation; (ii) establish  
65 clear procedures for students, staff, parents, guardians, and others to report bullying or  
66 retaliation; (iii) include a provision that reports of bullying or retaliation may be made  
67 anonymously; provided, however, that no disciplinary action shall be taken against a student  
68 solely on the basis of an anonymous report; (iv) establish clear procedures for promptly  
69 responding to and investigating reports of bullying or retaliation; (v) identify the range of  
70 disciplinary actions that may be taken against a perpetrator for bullying or retaliation; (vi)  
71 establish clear procedures for restoring a sense of safety for a victim and assessing that student's  
72 needs for protection; (vii) establish strategies for protecting from bullying or retaliation a person  
73 who reports bullying, provides information during an investigation of bullying, or is witness to

74 or has reliable information about an act of bullying; (viii) establish procedures consistent with  
75 state and federal law for promptly notifying the parents or guardians of a victim and a  
76 perpetrator; provided, however, that the parents or guardians of a victim shall also be notified of  
77 the action taken to prevent any further acts of bullying; and provided further that said  
78 procedures must provide for immediate notification to the local law enforcement agency where  
79 criminal charges may be pursued against the perpetrator; (ix) include a provision that a student  
80 who knowingly makes a false accusation of bullying shall be subject to disciplinary action; and  
81 (x) include a strategy for providing counseling or referral to appropriate services for perpetrators  
82 and victims and for appropriate family members of said students.

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

88 The bullying prevention and intervention plan may include ongoing professional  
89 development to build the skills of all members of school staff, including but not limited to  
90 educators, administrators, school nurses, cafeteria workers, custodians, and paraprofessionals, to  
91 prevent, identify and respond to bullying. The content of such professional development shall  
92 include, but not be limited to: (i) developmentally appropriate strategies to prevent bullying  
93 incidents; (ii) developmentally appropriate strategies for immediate, effective interventions to  
94 stop bullying incidents;(iii) information regarding the complex interaction and power  
95 differential that can take place between and among the perpetrator, the victim, and any

96 witnesses to the bullying; (iv) research findings on bullying; (v) information on the incidence  
97 and nature of cyber-bullying; and (vi) internet safety issues as they relate to cyber-bullying.

98           The bullying prevention and intervention plan shall include provisions for educating  
99 parents and guardians about the bullying prevention curriculum of the district or school; how  
100 parents and guardians can reinforce the curriculum at home and support the district or school  
101 prevention and intervention plan; the dynamics of bullying; and online safety and cyber-  
102 bullying.

103           (e)(1) Each school district, commonwealth charter school and non-public school shall  
104 provide to students and their parents or guardians, in age-appropriate terms and in the languages  
105 which are most predominant among the students, parents and guardians, annual written notice of  
106 the relevant sections of the bullying prevention and intervention plan.

107           (2) Each school district, commonwealth charter school and non-public school shall  
108 provide to all school staff annual written notice of the bullying prevention and intervention plan.  
109 The faculty and staff at each school shall be trained annually on the bullying prevention and  
110 intervention plan applicable to the school. Relevant sections of the bullying prevention and  
111 intervention plan shall be included in a district or school employee handbook.

112           (3) The bullying prevention and intervention plan shall be posted on the website of each  
113 school district, commonwealth charter school and non-public school.

114           (f) Each school principal or the person who holds a comparable role shall be responsible  
115 for the implementation and oversight of the bullying prevention and intervention plan at his  
116 school.

117 (g) A member of a school staff, including but not limited to an educator, administrator,  
118 school nurse, cafeteria worker, custodian, and paraprofessional, shall immediately report any  
119 instance of bullying or retaliation the staff member has witnessed or become aware of to the  
120 school principal or to the school official identified in the bullying prevention and intervention  
121 plan as responsible for receiving such reports or both. Upon receipt of such a report, the school  
122 principal or a designee shall promptly investigate. If the school principal or a designee  
123 determines that bullying or retaliation has occurred, the school principal or designee shall (i)  
124 notify the local law enforcement agency if the school principal or designee believes that  
125 criminal charges may be pursued against the perpetrator; (ii) take appropriate disciplinary  
126 action; (iii) notify the parents or guardians of the perpetrator; and (iv) notify the parents or  
127 guardians of the victim, and to the extent consistent with state and federal law, notify them of  
128 the action taken to prevent any further acts of bullying or retaliation.

129 (h) If an incident of bullying or retaliation involves students from more than one school  
130 district, commonwealth charter school or non-public school, the district or school first informed  
131 of the bullying or retaliation shall promptly notify the appropriate administrator of other district  
132 or school so that both may take appropriate action; provided however that the notification shall  
133 be in compliance with 20 U.S.C. section 1232g.

134 (i) Nothing in this section shall be construed to abridge the rights of students that are  
135 protected by the First Amendment to the Constitution of the United States or by Article XVI, as  
136 amended, of the Constitution of the commonwealth.

137 (j) Nothing in this section shall supersede or replace existing rights or remedies under  
138 any other general or special law, nor shall this section create a private right of action for  
139 enforcement of this section against any public school, school district or the commonwealth.

140 (k) The department of elementary and secondary education, after consultation with the  
141 department of public health, the department of mental health, the attorney general and experts  
142 on bullying, shall (i) publish a model bullying prevention and intervention plan for school  
143 districts, commonwealth charter schools, and non-public schools to consider when creating their  
144 own plans and (ii) compile a list of bullying prevention and intervention resources, evidence-  
145 based curricula, best practices and academic-based research that shall be made available for use  
146 by schools. These resources may include, but shall not be limited to, print, audio, video or  
147 digital media; subscription-based online services; and on-site or technology-enabled  
148 professional development and training sessions. The department of elementary and secondary  
149 education shall biennially update the model bullying prevention and intervention plan and the  
150 list of these resources, curricula, best practices and research and shall ensure that they are posted  
151 on its website.

152 **SECTION 5.** Section 3 of said chapter 71B, as appearing in the 2008 Official Edition,  
153 is hereby amended by adding in line 154 after the word “proficiencies;” the following words:  
154 “the skills and proficiencies needed to avoid and respond to bullying, harassment or teasing;”.

155 **SECTION 6.** School districts, commonwealth charter schools, and non-public schools  
156 shall have a bullying prevention and intervention plan in compliance with this act and  
157 incorporate the plan into the district code of conduct required by section 37H of chapter 71 of  
158 the General Laws and shall file the plan with the department of elementary and secondary  
159 education not later than December 31, 2010.

160 **SECTION 7.** The department of elementary and secondary education shall publish  
161 guidelines for the implementation of social and emotional learning curricula in kindergarten  
162 through grade 12 not later than June 30, 2011. For purposes of this section, social and



163 emotional learning shall mean the processes through which children acquire the knowledge,  
164 attitudes, and skills they need to recognize and manage their emotions, demonstrate caring and  
165 concern for others, establish positive relationships, make responsible decisions, and handle  
166 challenging social situations constructively.