

SENATE No. 242

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas P. Kennedy

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:

Thomas P. Kennedy

DISTRICT/ADDRESS:

Second Plymouth and Bristol

The Commonwealth of Massachusetts

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 1.

2 (a) Each school district and charter school shall ensure that its public school
3 employees receive combined training each year totaling one (1) hour in the identification and
4 reporting of criminal youth gang activity. The training materials shall be prepared by the
5 Massachusetts Office of the Attorney General and the Department of Elementary and Secondary
6 Education in collaboration with law enforcement agencies, the Massachusetts Board of
7 Education, and the Board of Elementary and Secondary Education Advisory Councils.

8 (b) Any in-service training required by this section shall be provided within the
9 contracted school year and shall be considered creditable towards professional development.

10 Section 2.

11 (a) Definition of bullying.

12 As used in this section, bullying means any intentional written, electronic, verbal
13 or physical act or actions against another person that a reasonable person under the
14 circumstances should know will have the effect of:

15 (1) Placing a person in reasonable fear of substantial harm to his or her
16 emotional or physical well-being or substantial damage to his or her property.

17 (2) Creating a hostile, threatening, humiliating or abusive educational
18 environment due to the pervasiveness or persistence of actions or due to a power
19 differential between the bully and the target; or

20 (3) Interfering with a student having a safe school environment that is
21 necessary to facilitate educational performance, opportunities or benefits; or

22 (4) Perpetuating bullying by inciting, soliciting or coercing an individual or
23 group to demean, dehumanize, embarrass or cause emotional, psychological or physical
24 harm to another person

25 (b) Prohibition of bullying.

26 (1) Each school district and charter school shall prohibit bullying and reprisal,
27 retaliation or false accusation against a target, witness or one with reliable information
28 about an act of bullying.

29 (2) Each school district and charter school shall establish a policy which, at a
30 minimum, includes the following components:

31 (A) A statement prohibiting bullying of any person on school property
32 or at school functions or by use of data or computer software that is accessed
33 through a computer, computer system, computer network or other electronic
34 technology of a school district and charter school from grades kindergarten
35 through grade twelve.

36 (B) A definition of bullying no less inclusive than that in (a) of this
37 section.

38 (C) Direction to develop a school-wide bullying prevention program.

39 (D) A requirement that each school establish a site-based committee
40 that is responsible for coordinating the school's bully prevention program
41 including the design, approval and monitoring of the program. A majority of the
42 members of the site-based committee shall be members of the school professional
43 staff, of which a majority shall be instructional staff. The committee also shall
44 contain representatives of the administrative staff, support staff, student body (for
45 school enrolling students in grades 7 through 12), parents and staff from the
46 before- or after-school program(s). These representatives shall be chosen by
47 members of each respective group except that representatives of the non-
48 employee groups shall be appointed by the school principal. The committee shall
49 operate on a 1-person, 1-vote principle. In the event a site-based school discipline
50 committee has been established that committee shall vote whether or not to accept
51 the aforementioned responsibilities.

52 (E) A requirement that any school employee that has reliable
53 information that would lead a reasonable person to suspect that a person is a target
54 of bullying shall immediately report it to the administration.

55 (F) A requirement that each school have a procedure for the
56 administration to promptly investigate in a timely manner and determine whether
57 bullying has occurred.

58 (G) A requirement that, to the extent that funding is available, each
59 school develop a plan for a system of supervision in non-classroom areas. The

60 plan shall provide for the review and exchange of information regarding non-
61 classroom areas.

62 (H) An identification of an appropriate range of consequences for
63 bullying.

64 (I) A procedure for a student and parent, guardian or relative caregiver
65 or legal guardian to be permitted to provide information on bullying activity.
66 However, this paragraph does not permit formal disciplinary action solely based
67 on an anonymous report.

68 (J) A requirement that a parent, guardian or relative caregiver or legal
69 guardian of any target of bullying or person who bullies another as defined herein,
70 be notified.

71 (K) A requirement that all bullying incidents be reported to the
72 Department of Elementary and Secondary Education within five (5) working days
73 pursuant to Department of Elementary and Secondary Education regulations.

74 (L) A statement prohibiting retaliation following a report of bullying.

75 (M) A procedure for communication between school staff members and
76 medical professionals who are involved in treating students for bullying issues.

77 (N) A requirement that the school bullying prevention program be
78 implemented throughout the year, and integrated with the school's discipline
79 policies.

80 (c) Dissemination of Policy and Accountability.

81 (1) Each school district and charter school shall adopt the policy consistent
82 with section (b) of this section and submit a copy to the Massachusetts Department of
83 Elementary and Secondary Education by January 1, 2011.

84 (2) The policy shall appear in the student and staff handbook and if no
85 handbook is available, or it is not practical to reprint new handbooks, a copy of the policy
86 will be distributed annually to all students, parents, faculty and staff.

87 (3) The policy shall be submitted to the Massachusetts Department of
88 Elementary and Secondary Education by the first day of January each subsequent year.
89 The Department shall review such policy annually for compliance with State and federal
90 law and regulations promulgated by the Department of Elementary and Secondary
91 Education.

92 (4) The Massachusetts Department of Elementary and Secondary Education
93 shall prepare an annual report, which shall include a summary of reported and
94 substantiated incidences of bullying.

95 (d) Duties of the Department of Elementary and Secondary Education.

96 (1) The Massachusetts Department of Elementary and Secondary Education
97 shall collaborate with the Massachusetts Office of the Attorney General to develop a
98 model policy, that may change from time to time, that is applicable to kindergarten
99 through grade 12, and post this policy on their websites in order to assist the school
100 districts and charter schools.

101 (2) To the extent that funding is available the State Department of Elementary
102 and Secondary Education will provide for an award system for schools with exemplary

103 programs based on criteria promulgated by the Massachusetts Department of Elementary
104 and Secondary Education.

105 (e) Immunity.

106 A school employee, school volunteer, student, parent, legal guardian or relative
107 caregiver is individually immune from a cause of action for damages arising from
108 reporting bullying in good faith and to the appropriate person or persons using the
109 procedures specified in the school district and charter school's bullying prevention policy.

110 (f) Other Defenses.

111 (1) The physical location or time of access of a technology-related incident is
112 not a valid defense in any disciplinary action by the school district and charter school
113 initiated under this section provided there is sufficient school nexus.

114 (2) This section does not apply to any person who uses data or computer
115 software that is accessed through a computer, computer system, computer network or
116 other electronic technology when acting within the scope of his or her lawful
117 employment or investigation a violation of this section in accordance with school district
118 or charter school policy.

119 (g) Relationship to School Crime Reporting Law.

120 An incident may meet the definition of bullying and also the definition of a
121 particular crime under State or federal law. Nothing in this section or in the policies
122 promulgated as a result thereof shall prevent school officials from fulfilling all of the
123 mandatory reporting requirements or from reporting probable crimes that occur on school
124 property or at a school function which are not required to be reported under that section.
125 Nothing in this section shall abrogate the reporting requirements for child abuse or sexual

126 abuse set forth in mandatory reporting laws, or any other reporting requirement under
127 State or federal law.

128 (g) Rules and Regulations.

129 Notwithstanding any provision to the contrary, the Massachusetts Department of
130 Elementary and Secondary Education may promulgate rules and regulations necessary to
131 implement this section.