

# The Massachusetts Senate



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**Text of Senate amendments to [S2313](#)**

**ADOPTED  
CLERK #1**

## **Oversight Amendment**

Messrs. O’Leary and Eldridge and Ms. Creem and Messrs. Brewer and Donnelly move to amend the bill (S2313) by inserting at the end thereof the following new section:-

“SECTION X. The department of elementary and secondary education shall periodically review school district programs, activities, and services to determine whether the school boards are in compliance with this statute.”

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**ADOPTED  
CLERK #2**

## **At Risk Student Training Amendment**

Messrs. Eldridge and O’Leary and Ms. Creem and Mr. Donnelly move to amend the bill (S2313) by striking the words “(iv) research findings on bullying;” in line 96, and inserting in place thereof the following:- “(iv) research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment;”

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**ADOPTED  
Redraft Clerk #3**

## **AN AMENDMENT RELATIVE TO INDIVIDUALIZED EDUCATION PROGRAMS**

Ms. Flanagan moves to amend Senate 2313 by inserting after Section 4:-

Section X: Section 3 of chapter 71B in the 2008 official edition is hereby amended by adding after the word “psychiatrist.” in line 131, the following sentence: - “Whenever the evaluation indicates that a child requires an Individualized Education Program, this program may address the skills and proficiencies to avoid and respond to bullying, harassment or teasing.”

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**Clerk #4**

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**WITHDRAWN**

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**Rejected  
Clerk #5****Relative to a geographical nexus**

Mr. Tarr moves to amend the bill (S. 2313) by striking the second paragraph of subsection (b) of section 4 and inserting in place thereof the following:-

“Bullying is also prohibited both (i) at a location, activity, function or program that is not school-related and (ii) through the use of technology or an electronic device that is not owned, leased or used by a district or school if the act or acts in question (a) create a hostile environment at school for the victim, infringe on the rights of the victim at school, or materially and substantially disrupt the education process or the orderly operation of a school, or (b) are part of a pattern of conduct that occurs in part in a form subject to the first paragraph of this subsection.”

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**Rejected  
Further Clerk #5.1****Bullying Reporting Requirements**

Mr. Knapik moves to amend the amendment (Tarr #5) by striking out the text in its entirety and inserting in place thereof the following text :--

Section 4 is here hereby amended by striking out subsection (g) and inserting in place thereof the following:-

(g) A member of a school staff, including but not limited to an educator, administrator, school nurse, cafeteria worker, custodian, and paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the school principal or to the school official identified in the bullying prevention and intervention plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall (i) notify the local law enforcement agency and the district attorney who shall determine if criminal charges should be pursued against the perpetrator (ii) take appropriate disciplinary action; (iii) notify the parents or guardians of the perpetrator; and (iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation.

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**Rejected  
Clerk #6****Relative to alternative dispute resolution**

Mr. Tarr moves to amend the bill (S. 2313) in Section 1 by inserting after the words “conflict resolution” the following:- “including alternative dispute resolution”.

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**Rejected  
Clerk #7****Relative to notice and comment**

Mr. Tarr moves to amend the bill (S. 2313) in subsection (d) of section 4 by inserting after the words “at a minimum include” the words “notice and”.

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Clerk #8

**WITHDRAWN**

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**ADOPTED**  
Redraft Clerk #9

### **An Amendment Relative to School Safety**

Ms. Candaras and Messrs. Morrissey, Buoniconti, Tarr and Knapik move that S. 2313 be amended by inserting after section 5 the following 3 sections:--

SECTION 5A. Section 43 of chapter 265 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$1,000, or imprisonment in the house of correction for not more than 2 and one-half years or both. Such conduct, acts or threats described in this subsection shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

SECTION 5B. Section 43A of said chapter 265, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which seriously alarms that person and would cause a reasonable person to suffer substantial emotional distress, shall be guilty of the crime of criminal harassment and shall be punished by imprisonment in a house of correction for not more than 2 and one-half years or by a fine of not more than \$1,000, or by both such fine and imprisonment. Such conduct or acts described in this paragraph shall include, but not be limited to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

SECTION 5C. Chapter 269 of the General Laws is hereby amended by striking out section 14A and inserting in place thereof the following section:-

Section 14A. Whoever telephones another person or contacts another person by electronic communication,

or causes a person to be telephoned or contacted by electronic communication, repeatedly, for the sole purpose of harassing, annoying or molesting the person or the person's family, whether or not conversation ensues, or whoever telephones or contacts a person repeatedly by electronic communication and uses indecent or obscene language to the person, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 months, or both.

; and by adding at the end thereof following section:-

Section 8. There shall be a special commission for the purpose of making an investigation and study relative to bullying and cyber-bullying. The commission shall consist of 7 members: 1 of whom shall be the attorney general, or a designee, who shall chair the commission; 1 of whom shall be a representative of the Massachusetts District Attorneys Association; 1 of whom shall be a representative of the Massachusetts Chiefs of Police Association; 1 of whom shall be a representative of the Massachusetts Sheriffs' Association; 1 of whom shall be a representative of the Massachusetts Association of School Committees; 1 of whom shall be a representative of the Massachusetts Association of School Superintendents; and 1 of whom shall be a representative of the Massachusetts Association of Secondary School Administrators. The commission shall review criminal laws to determine if they need to be amended in order to address bullying and cyber-bullying; provided further that the commission shall also investigate parental responsibility and liability for bullying and cyber-bullying. The commission shall also investigate and study the efficacy of including in the general laws specific categories or methods of bullying, specific classes of individuals for whom anti-bullying polices should be in place, as well as the efficacy of putting in place a mandated report system for bullying similar to the system currently established in section 51A of chapter 119 of the General Laws. The commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry out such recommendations, by filing the same with the clerks of the senate and the house of representatives who shall forward the same to the chairs of the joint committee on education, the chairs of the joint committee on the judiciary, the chairs of the joint committee on public safety and homeland security, the chairs of the joint committee on children and families and the chairs of the house and senate committees on ways and means not later than January 1, 2011.

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***Rejected***  
**Clerk #10**

#### **Relative to the first amendment**

Mr. Tarr moves to amend the bill (S. 2313) by striking subsection (i) of section 4, and by inserting after Section 7 the following new section:-

“SECTION 8. Nothing in this Act shall be construed to abridge the rights of students that are protected by the First Amendment to the Constitution of the United States or by Article XVI, as amended, of the Constitution of the Commonwealth of Massachusetts.”

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**ADOPTED**  
**Clerk #11**

#### **Technical Amendment**

Mr. Panagiotakos moves to amend the bill (Senate, No. 2313) in Section 4, in proposed subsection (j) of proposed section 37O of chapter 71 of the General Laws, by striking out, in lines 138 and 139, the words “for enforcement of this section against any public school, school district or the commonwealth”.