

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:

Section 1. Chapter 71 be amended by inserting after section 37N, the following section 37O.

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

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

(A) During any education program or activity; or

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

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

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

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

(b) School Board Requirements and Responsibilities

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

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

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

(A) Notice

(i) A statement prohibiting discrimination, harassment, intimidation, bullying or cyberbullying of a student, as defined above;

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

(B) Reporting and Investigations

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

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

(C) Remedies and Victim Assistance

- (i) Consequences and appropriate remedial action for a person who commits an act of discrimination, harassment, intimidation, bullying or cyberbullying;
- (ii) Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation, reprisal, or as a means of discrimination, harassment, intimidation, bullying or cyberbullying;
- (iii) A strategy for providing counseling or referral to appropriate services, including

guidance, academic intervention, and protection to students, both victims and perpetrators, and appropriate family members, affected by discrimination, harassment, intimidation, bullying or cyberbullying, as necessary;

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

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

(A) a reasonable person should know, under the circumstances, that the act will have the

effect of harming a student or damaging the student's property, or placing a student in reasonable fear of harm to his or her person or damage to his or her property; or

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

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

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

(D) Training and Assessment

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

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

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

The Department of Elementary & Secondary Education shall:

- (1) Develop a model policy and training materials on the components that should be included in any district policy;
- (2) Periodically review school district programs, activities, and services to determine whether the school boards are complying with this statute;
- (3) Compile, in conjunction with the Department of Public Health, the Department of Mental Health and the Attorney General of the Commonwealth, a list of bullying and cyberbullying prevention resources, existing prevention programs, best practices, techniques, and academic-based research consistent with section 370 that shall be made available for use by school districts; such prevention resources, existing prevention programs, best practices, techniques and academic-based research and sample policies to be updated biennially;

- (4) Promulgate a set of guidelines and procedures for defining district reporting requirements for incidents of bullying and cyberbullying;
- (5) Establish and maintain a central repository for the collection and analysis of information regarding discrimination, harassment, intimidation, bullying or cyberbullying as defined in this statute;
- (6) Report to the state legislature annually on the current levels and nature of harassment, intimidation, and bullying in the schools and the effectiveness of school policies under this statute in combating discrimination, harassment, intimidation, bullying or cyberbullying, including recommendations for appropriate actions to address identified problems.

(d) Preclusion

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

(e) Timetable

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