

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Bradford R. Hill

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:

Bradford R. Hill

DISTRICT/ADDRESS:

4th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 454 OF 2007-2008.]

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 I – Legislative Findings

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3 The Legislature finds that a safe and civil environment in school is necessary for students to learn and
4 achieve high academic standards. The Legislature finds that harassment, intimidation or bullying, like
5 other disruptive or violent behavior, is conduct that disrupts both a student’s ability to learn and a
6 school’s ability to educate its students in a safe, nonthreatening environment.

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8 The legislature further finds that students learn by example. The legislature charges school
9 administrators, faculty, staff and volunteers with demonstrating appropriate behavior, treating others
10 with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

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12 SECTION II – Definitions

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14 As used in this article, “harassment, intimidation or bullying” means any intentional gesture or any
15 intentional written, verbal or physical act or threat that:

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17 (a) a reasonable person, under the circumstances, should know would have the effect of:

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19 (1) Harming a student;

20 (2) Damaging a student's property;

21 (3) Placing a student in reasonable fear of harm to his or her person; or

22 (4) Placing a student in reasonable fear of damage to his or her property; or

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24 (b) is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening
25 or abusive educational environment for a student.

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27 SECTION III – Policy prohibiting harassment, intimidation or bullying

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29 (a) Each county/school board of education shall establish a policy prohibiting harassment,
30 intimidation or bullying. Each county/school board has control over the content of its
31 policy as long as the policy contains, at a minimum, the requirements of subdivision (b)
32 of this section. The policy shall be adopted through a process that includes
33 representation of parents or guardians, school employees, school volunteers, students
34 and community members.

35

36 (b) Each county/school board policy shall, at a minimum, include the following components:

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38 (1) A statement prohibiting harassment, intimidation or bullying of any student on
39 school property, on a school bus or other school-related vehicle, at an official
40 school bus stop, or at a school-sponsored activity or event whether or not it is
41 held on school premises;

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43 (2) A definition of harassment, intimidation or bullying no less inclusive than that in
44 section two of this article;

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46 (3) A description of the type of behavior expected from each student;

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48 (4) Consequences and appropriate remedial action for a person who commits an
49 act of harassment, intimidation, or bullying;

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51 (5) A procedure for reporting an act of harassment, intimidation, or bullying,
52 including a provision that permits a person to report an act of harassment,

- 53 intimidation, or bullying anonymously. However, this subdivision shall not be
54 construed to permit formal disciplinary action solely based on an anonymous
55 report;
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- 57 (6) A requirement that school personnel report prohibited incidents of which they
58 are aware;
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- 60 (7) A procedure for responding to any reported act of harassment, intimidation, or
61 bullying;
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- 63 (8) A procedure for prompt investigation of reports of violations and complaints,
64 identifying either the principal or the principal's designee as the person
65 responsible for the investigation;
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- 67 (9) A requirement that parents or guardians of any student involved in an incident
68 prohibited pursuant to this article be notified;
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- 70 (10) The range of ways in which a school will respond once an incident of
71 harassment, intimidation, or bullying is identified and
72
- 73 (11) A procedure for documenting any prohibited incident that is reported.
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- 75 (12) A statement that prohibits reprisal or retaliation against any person who reports
76 an act of harassment, intimidation, or bullying, and the consequences and
77 appropriate remedial action for a person who engages in that type of reprisal or
78 retaliation;
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- 80 (13) A strategy for protecting a victim from additional harassment, intimidation or
81 bullying, and from retaliation following a report;
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- 83 (14) A procedure for counseling students who have been victims or targets of
84 bullying;
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- 86 (15) Consequences and appropriate remedial action for a person found to have
87 falsely accused another as a means of retaliation or as a means of harassment,
88 intimidation, or bullying;
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- 90 (16) A disciplinary or counseling procedure for any student guilty of harassment,
91 intimidation, or bullying;
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- 93 (17) A requirement that any information relating to a reported incident is
94 confidential, and exempt from disclosure under the provisions of chapter... of
95 this code and
96
- 97 (18) A statement of how the policy is to be publicized including notice that the policy
98 applies to participation in school-sponsored activities.
99
- 100 (c) Each county/school board shall adopt the policy and submit a copy to the state
101 superintendent of schools by the first day of September, in the year which this
102 legislation takes effect.
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- 104 (d) To assist county/school boards in developing their policies, for the prevention of
105 harassment, intimidation, or bullying the Department of Education shall develop
106 a model policy applicable to grades kindergarten through twelfth and post this
107 policy on their website. The model policy shall be issued by the first day of
108 December 2005.
- 109
- 110 (e) Notice of the county/school board's policy shall appear in any
111 student handbooks, and in any county board publication, that sets
112 forth the comprehensive rules, procedures and standards of
113 conduct for its schools, and in its pupil handbooks.

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115 SECTION IV – Prohibiting reprisal, retaliation, or false accusation

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- 117 (a) A school administrator, employee, pupil, or volunteer shall not
118 engage in reprisal, retaliation, or false accusation against a victim, witness, or
119 one with reliable information about an act of harassment, intimidation, or
120 bullying.

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- 122 (b) A school administrator, employee, pupil, or volunteer who has

123 witnessed, or has reliable information that a student has been subjected to,
124 harassment, intimidation, or bullying, whether verbal or physical, is encouraged
125 to report the incident to the appropriate school official designated by the school
126 district's or public school academy's policy.

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128 SECTION V – Immunity

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130 A school employee, student or volunteer is individually immune from a
131 cause of action for damages arising from reporting harassment,
132 intimidation or bullying, or any failure to remedy the reported harassment,
133 intimidation or bullying, if that person:

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- 135 (1) In good faith promptly reports an incident of harassment, intimidation or
136 bullying;
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 - 138 (2) Makes the report to the appropriate school official designated by the school
139 district's or public school academy's policy and
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 - 141 (3) Makes the report in compliance with the procedures as specified in policy
142 prohibiting harassment, intimidation, or bullying.
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144 SECTION VI – Policy training and education

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- 146 (a) Schools and county/district school boards are encouraged to form bullying
147 prevention task forces, programs and other initiatives involving school staff,
148 students, teachers, administrators, volunteers, parents, law enforcement and
149 community members.
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 - 151 (b) Each county/district board or public school academy shall do all of the following:
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 - 153 (1) Provide training on the harassment, intimidation, or bullying policy to school
154 employees and volunteers who have direct contact with students; and
155

156 (2) Develop a process for educating students on the harassment, intimidation or
157 bullying policy.
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159 (3) Information regarding the county board policy against harassment, intimidation
160 or bullying shall be incorporated into each school's current employee training
161 program.
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163 SECTION VII – Liability

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165 Except as provided in section five of this article, nothing in this article prohibits a victim
166 from seeking redress under any other provision of civil or criminal law. This section
167 does not create or alter any tort liability.

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169 SECTION VIII – Definitions

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171 (a) "At school" means in a classroom, elsewhere on or immediately adjacent to school
172 premises, on a school bus or other school-related vehicle, at an official school bus
173 stop, or at a school-sponsored activity or event whether or not it is held on school
174 premises.
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176 (b) "Harassment, intimidation, or bullying" means any gesture or written, verbal, or
177 physical act that a reasonable person under the circumstances should know will
178 have the effect of harming a pupil or damaging his or her property or placing a pupil
179 in reasonable fear of harm to his or her person or damage to his or her property, or
180 that has the effect of insulting or demeaning any pupil or group of pupils in such a
181 way as to disrupt or interfere with the school's educational mission or the education
182 of any pupil. Harassment, intimidation, or bullying includes, but is not limited to, a
183 gesture or written, verbal, or physical act described in this section that is perceived
184 as being motivated by the harasser, intimidator, or bully, for any reason, towards
185 any target or victim.
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187 SECTION IX – Accountability to the State Superintendent – Report to Lawmakers

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189 Each school district shall report to the superintendent of public instruction by January
190 31st of each year all incidents, resulting in disciplinary action, involving harassment,
191 intimidation, or bullying, that result in a short or long-term suspension or expulsion on

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school premises or on transportation systems used by schools, in the year preceding the
report. The superintendent shall compile the data and report it to the appropriate
committee of the State House and the State Senate.

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