

**HOUSE . . . . . No.**

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**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

# 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:*

1 Section 1. Chapter 71 be amended by inserting after section 37N, the following section 37O.  
2

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

4 (1) No student shall be subjected to harassment, intimidation, bullying, or cyberbullying  
5 in any public educational institution,  
6

7 (A) During any education program or activity; or  
8

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

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

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

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

25 **(b) School Board Requirements and Responsibilities**

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

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

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

35 (A) Notice

- 36
- 37 (i) A statement prohibiting discrimination, harassment, intimidation, bullying or  
38 cyberbullying of a student, as defined above;
- 39
- 40 (ii) A statement prohibiting retaliation or false accusation against a target, witness or  
41 one with reliable information about an act of bullying, harassment and  
42 intimidation;
- 43
- 44 (iii) A requirement that all students are protected regardless of their status under the  
45 law;
- 46
- 47 (iv) A statement of how the policy is to be publicized, including requirements that:  
48 annual written notice of the policy is provided to parents, guardians, staff, volunteers,  
49 and students, with age appropriate language for students; the policy is posted  
50 throughout all schools in the district, including but not limited to cafeterias, school  
51 bulletin boards, administration offices, and the school district’s Web site; and the  
52 policy is included in all student and employee handbooks;
- 53
- 54 (v) A procedure for providing immediate notification to the parents of a victim of  
55 discrimination, harassment, intimidation, bullying or cyberbullying and the parents  
56 of the perpetrator of discrimination, harassment, intimidation, bullying or  
57 cyberbullying;
- 58
- 59 (vi) The identification by job title of school officials responsible for ensuring that the  
60 policy is implemented.
- 61

62 (B) Reporting and Investigations  
63

64 (i) A procedure for reporting an act of discrimination, harassment, intimidation,  
65 bullying or cyberbullying, including a provision that permits a person to report such  
66 act anonymously; no formal disciplinary action shall be taken solely on the basis of  
67 an anonymous report;  
68

69 (ii) A requirement that any school employee that has reliable information that would  
70 lead a reasonable person to suspect that a person is a target of bullying, harassment  
71 and intimidation shall immediately report it to the administration;

72 (iii) A procedure for each school to document any prohibited incident that is reported  
73 and a procedure to report all incidents of discrimination, harassment, intimidation,  
74 bullying or cyberbullying and the resulting consequences, including discipline and  
75 referrals, to the Department of Elementary & Secondary Education on a semi-annual  
76 basis;  
77

78 (iv) A procedure for reporting to law enforcement all acts of discrimination,  
79 harassment, intimidation, bullying or cyberbullying which may constitute criminal  
80 activity.  
81

82 (v) A procedure for prompt investigation of reports of violations and complaints,  
83 identifying either the principal or the principal's designee as the person responsible  
84 for the investigation;  
85

86 (C) Remedies and Victim Assistance  
87

88 (i) Consequences and appropriate remedial action for a person who commits an act of  
89 discrimination, harassment, intimidation, bullying or cyberbullying;  
90

91 (ii) Consequences and appropriate remedial action for a person found to have falsely  
92 accused another as a means of retaliation, reprisal, or as a means of discrimination,  
93 harassment, intimidation, bullying or cyberbullying;

94 (iii) A strategy for providing counseling or referral to appropriate services, including  
95 guidance, academic intervention, and protection to students, both victims and  
96 perpetrators, and appropriate family members, affected by discrimination,  
97 harassment, intimidation, bullying or cyberbullying, as necessary;

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

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

106 (A) a reasonable person should know, under the circumstances, that the act will  
107 have the  
108 effect of harming a student or damaging the student's property, or placing a  
109 student in reasonable fear of harm to his or her person or damage to his or her  
110 property; or

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

114  
115 (C) the act is directed specifically at students or school personnel and maliciously  
116 intended for the purpose of disrupting school.

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

121 (D) Training and Assessment

122  
123 (i) Annual training for school employees and volunteers who have significant contact  
124 with students in preventing, identifying, responding to, and reporting incidents of  
125 discrimination, harassment, intimidation, bullying or cyberbullying;

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

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

130 The Department of Elementary & Secondary Education shall:

131 (1) Develop a model policy and training materials on the components that should be  
132 included in any district policy;

133 (2) Periodically review school district programs, activities, and services to determine  
134 whether the school boards are complying with this statute;

135 (3) Compile, in conjunction with the Department of Public Health, the Department of  
136 Mental Health and the Attorney General of the Commonwealth, a list of bullying and  
137 cyberbullying prevention resources, existing prevention programs, best practices,  
138 techniques, and academic-based research consistent with section 370 that shall be  
139 made available for use by school districts; such prevention resources, existing  
140 prevention programs, best practices, techniques and academic-based research and  
141 sample policies to be updated biennially;

142 (4) Promulgate a set of guidelines and procedures for defining district reporting  
143 requirements for incidents of bullying and cyberbullying;

144 (5) Establish and maintain a central repository for the collection and analysis of information  
145 regarding discrimination, harassment, intimidation, bullying or cyberbullying as defined  
146 in this statute;

147 (6) Report to the state legislature annually on the current levels and nature of harassment,  
148 intimidation, and bullying in the schools and the effectiveness of school policies under  
149 this statute in combating discrimination, harassment, intimidation, bullying or  
150 cyberbullying, including recommendations for appropriate actions to address identified  
151 problems.

152 **(d) Preclusion**

153 (1) This act shall not be interpreted to prevent a victim from seeking redress under any  
154 other available law either civil or criminal.

155 (2) Nothing in this statute is intended to infringe upon the right of a school employee or  
156 student to exercise their right of free speech.

157 **(e) Timetable**

158 School districts must complete and publish a bullying prevention policy in compliance with this  
159 section, and incorporate such policies into the district code of conduct as required by section  
160 37H of chapter seventy-one of the General Laws, no later than July 31, 2011.