

SENATE No.

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:

DISTRICT/ADDRESS:

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

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

9 Section 2.

10 (a) Definition of bullying.

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

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

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

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

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

22 (b) Prohibition of bullying.

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

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

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

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

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

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

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

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

49 (G) A requirement that, to the extent that funding is available, each school develop a
50 plan for a system of supervision in non-classroom areas. The plan shall provide for the review and
51 exchange of information regarding non-classroom areas.

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

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

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

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

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

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

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

66 (c) Dissemination of Policy and Accountability.

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

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

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

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

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

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

84 (2) To the extent that funding is available the State Department of Elementary and Secondary
85 Education will provide for an award system for schools with exemplary programs based on criteria
86 promulgated by the Massachusetts Department of Elementary and Secondary Education.

87 (e) Immunity.

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

92 (f) Other Defenses.

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

96 (2) This section does not apply to any person who uses data or computer software that is
97 accessed through a computer, computer system, computer network or other electronic technology when

98 acting within the scope of his or her lawful employment or investigation a violation of this section in
99 accordance with school district or charter school policy.

100 (g) Relationship to School Crime Reporting Law.

101 An incident may meet the definition of bullying and also the definition of a particular crime under
102 State or federal law. Nothing in this section or in the policies promulgated as a result thereof shall prevent
103 school officials from fulfilling all of the mandatory reporting requirements or from reporting probable
104 crimes that occur on school property or at a school function which are not required to be reported under that
105 section. Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse
106 set forth in mandatory reporting laws, or any other reporting requirement under State or federal law.

107 (g) Rules and Regulations.

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