

HOUSE No. 4571

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of an amendment recommended by the committee on Ways and Means (House, No. 4567), as changed by the committee on Bills in the Third Reading and as amended by the House to the Senate Bill 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 , charter school, or an approved private day or residential school or collaborative school
2 with whom a school committee has provided or arranged to provide alternative or special
3 education services may establish separate discrimination or harassment policies that include
4 categories of students. Nothing in this section shall prevent a school district, charter school, or
5 an approved private day or residential school or collaborative school with whom a school
6 committee has provided or arranged to provide alternative or special education services from
7 remediating any discrimination or harassment based on a person’s membership in a legally
8 protected category under local, state or federal law.

9 The plan shall include ongoing professional development to build the skills of all
10 members of school staff including, but not limited to, educators, administrators, school nurses,
11 cafeteria workers, custodians, bus drivers and paraprofessionals, to prevent, identify and respond
12 to bullying. The content of such professional development shall include, but not be limited to: (i)
13 developmentally appropriate strategies to prevent bullying incidents; (ii) developmentally

14 appropriate strategies for immediate, effective interventions to prevent bullying incidents; (iii)
15 information regarding the complex interaction and power differential that can take place between
16 the perpetrator, victim and witnesses to the bullying; (iv) research findings on bullying, including
17 information about specific categories of students who have been shown to be particularly at risk
18 for bullying in the school environment; (v) information on the incidence and nature of cyber
19 bullying; and (vi) internet safety issues as they relate to cyber bullying. The department shall
20 identify and offer information on alternative methods for fulfilling the professional development
21 requirements of this section, at least 1 of which shall be available at no cost to school districts,
22 charter schools, approved private day or residential schools and collaborative schools.

23 The plan shall include provisions for informing parents and guardians about the bullying
24 prevention curriculum of the district or school and shall include, but not be limited to: (i) how
25 parents and guardians can reinforce the curriculum at home and support the district or school
26 plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-bullying.

27 (e)(1) Each school district, charter school, and approved private day or residential schools
28 or collaborative schools with whom a school committee has provided or arranged to provide
29 alternative or special education services shall provide to students and parents or guardians, in age
30 appropriate terms and in the languages which are most prevalent among the students, parents or
31 guardians, annual written notice of the relevant student related sections of the plan.

32 (2) Each school district, charter school, and approved private day or residential schools or
33 collaborative schools with whom a school committee has provided or arranged to provide
34 alternative or special education services shall provide to all school staff annual written notice of
35 the plan. The faculty and staff at each school shall be trained annually on the plan applicable to

36 the school. Relevant sections of the plan relating to the duties of faculty and staff shall be
37 included in a district or school employee handbook.

38 (3) The plan shall be posted on the website of each school district, charter school, and
39 approved private day or residential schools or collaborative schools with whom a school
40 committee has provided or arranged to provide alternative or special education services.

41 (f) Each school principal or the person who holds a comparable position shall be
42 responsible for the implementation and oversight of the plan at their school.

43 (g) If an incident of bullying or retaliation involves students from more than one school
44 district, charter school, or an approved private day or residential school or collaborative school
45 with whom a school committee has provided or arranged to provide alternative or special
46 education services, the district or school first informed of the bullying or retaliation shall,
47 consistent with state and federal law, promptly notify the appropriate administrator of the other
48 district or school so that both may take appropriate action. If an incident of bullying or retaliation
49 involves a former student no longer enrolled in a local school district, commonwealth charter
50 school, approved private day or residential school or collaborative school, the district or school
51 informed of the bullying or retaliation shall carry out its duties relative to the incident consistent
52 with the provisions of clause (viii) of the second paragraph of subsection (d).

53 (h) Nothing in this section shall supersede or replace existing rights or remedies under
54 any other general or special law, nor shall this section create a private right of action.

55 (i) The department, after consultation with the department of public health, the
56 department of mental health, the attorney general and experts on bullying shall: (i) publish a
57 model plan for school districts, charter schools, and approved private day or residential schools

58 or collaborative schools with whom a school committee has provided or arranged to provide
59 alternative or special education services to consider when creating their plans; and (ii) compile a
60 list of bullying prevention and intervention resources, evidence based curricula, best practices
61 and academic-based research that shall be made available to schools. Said model bullying
62 prevention and intervention plan shall be consistent with and organized according to the schools
63 and behavioral health framework developed by the department of elementary and secondary
64 education in accordance with Section 19 of Chapter 321 of the acts of 2008. These resources
65 may include, print, audio, video or digital media; subscription based online services; and on site
66 or technology enabled professional development and training sessions. The department shall
67 biennially update the model plan and the list of the resources, curricula, best practices and
68 research and shall post them on its website.

69 (j) The department shall by September 30, 2010 promulgate rules and regulations
70 necessary to carry out the purposes of this section; provided, further, that the regulations shall
71 include requirements related to a principal's duties under clause (viii) of the second paragraph of
72 subsection (d); provided, further, that the regulations shall include requirements and standards
73 for staff members to report instances of bullying; provided further that such regulations shall
74 require a member of a school staff, including but not limited to an educator, administrator, school
75 nurse, cafeteria worker, custodian, bus driver and paraprofessional, to immediately report any
76 instance of bullying or retaliation he has witnessed or become aware of to the school principal or
77 to the school official identified in the bullying prevention and intervention plan as responsible for
78 receiving such reports or both.

79 SECTION 5. Section 3 of chapter 71B of the General Laws, as appearing in the 2008
80 Official Edition, is hereby amended by inserting after the word "proficiencies", in line 154, the

81 following words:- ; the skills and proficiencies necessary to avoid and respond to bullying,
82 harassment or teasing.

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

86 (a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or
87 series of acts over a period of time directed at a specific person which seriously alarms or annoys
88 that person and would cause a reasonable person to suffer substantial emotional distress, and (2)
89 makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall
90 be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for
91 not more than 5 years or by a fine of not more than \$1,000, or imprisonment in the house of
92 correction for not more than 2 ½ years or both. Such conduct, acts or threats described in this
93 subsection shall include, but not be limited to, conduct, acts or threats conducted by mail or by
94 use of a telephonic or telecommunication device or electronic communication device including,
95 but not limited to, any device that transfers signs, signals, writing, images, sounds, data, or
96 intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic,
97 photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet
98 communications, instant messages or facsimile communications.

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

101 (a) Whoever willfully and maliciously engages in a knowing pattern of conduct or series
102 of acts over a period of time directed at a specific person, which seriously alarms that person and

103 would cause a reasonable person to suffer substantial emotional distress, shall be guilty of the
104 crime of criminal harassment and shall be punished by imprisonment in a house of correction for
105 not more than 2 ½ years or by a fine of not more than \$1,000, or by both such fine and
106 imprisonment. Such conduct or acts described in this paragraph shall include, but not be limited
107 to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device or
108 electronic communication device including, but not limited to, any device that transfers signs,
109 signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part
110 by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not
111 limited to, electronic mail, internet communications, instant messages or facsimile
112 communications.

113 SECTION 5C Section 13B of Chapter 268 of the General Laws is hereby amended by
114 inserting in after the first sentence in subsection 3 the following paragraph:-

115 Such conduct or acts described in this paragraph shall include, but not be limited to,
116 conduct or acts conducted by mail or by use of a telephonic or telecommunication device or
117 electronic communication device including but not limited to any device that transfers signs,
118 signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in
119 part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but
120 not limited to, electronic mail, internet communications, instant messages or facsimile
121 communications.

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

124 Section 14A. Whoever telephones another person or contacts another person by
125 electronic communication, or causes a person to be telephoned or contacted by electronic
126 communication, repeatedly, for the sole purpose of harassing, annoying or molesting the person
127 or the person’s family, whether or not conversation ensues, or whoever telephones or contacts a
128 person repeatedly by electronic communication and uses indecent or obscene language to the
129 person, shall be punished by a fine of not more than \$500 or by imprisonment for not more than
130 3 months, or both.

131 For purposes of this section, “electronic communication” shall include, but not be limited
132 to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature
133 transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-
134 optical system.

135 SECTION 5E. The sixth paragraph of section 3 of chapter 71B of the General Laws, as
136 appearing in the 2008 Official Edition, is hereby amended by inserting after the third sentence
137 the following sentence:-

138 Whenever the evaluation indicates that the child has a disability that affects social skills
139 development, the Individual Education Program (IEP), the program shall address the skills and
140 proficiencies needed to avoid and respond to bullying, harassment or teasing.

141 SECTION 6. School districts, charter schools, and approved private day or residential
142 schools or collaborative schools with whom a school committee has provided or arranged to
143 provide alternative or special education services shall establish a bullying prevention and
144 intervention plan in compliance with this act and shall file the plan with the department of
145 elementary and secondary education on or before December 31, 2010.

146 SECTION 7. The department of elementary and secondary education shall publish
147 guidelines for the implementation of social and emotional learning curricula in kindergarten
148 through grade 12 on or before June 30, 2011. The department of elementary and secondary
149 school education shall also publish guidelines for the implementation of social emotional
150 learning for afterschool sports programming. The guidelines shall be updated biennially. For
151 purposes of this section, social and emotional learning shall mean the processes which children
152 acquire the knowledge, attitudes and skills necessary to recognize and manage their emotions,
153 demonstrate caring and concern for others, establish positive relationships, make responsible
154 decisions and constructively handle challenging social situations.

155 SECTION 8. The department of elementary and secondary education shall periodically
156 review school district, charter school, and approved private day or residential schools or
157 collaborative schools with whom a school committee has provided or arranged to provide
158 alternative or special education services programs, activities and services to determine whether
159 the school committees and schools are in compliance with this act.”.

160 SECTION 9. Chapter 71 of the General Laws, as most recently amended by chapter 27 of
161 the acts of 2009, is hereby amended by inserting after section 91, the following new section: -

162 Section 92. Every public school providing computer access to students shall have a policy
163 regarding internet safety measures and shall notify the parents or guardians of all students
164 attending the school of the policy. Establishing the policy and any standards and rules enforcing
165 the policy shall be prescribed by the school committee in conjunction with the superintendent or
166 the board of trustees of a commonwealth charter school.

167 SECTION 10. The department of elementary and secondary education shall issue a report
168 detailing cost effective ways to implement the professional development requirements in
169 subsection (d) of section 70O of chapter 71 of the General Laws; provided, further, that the
170 report shall: (i) include an option available at no cost to school districts, charter schools,
171 approved private day or residential schools and collaborative schools, (ii) explore the feasibility
172 of an option for a train the trainer model with demonstrated success and online professional
173 development, and (iii) include any other options which may be cost effective; provided, further,
174 that the report shall include a cost estimate for the professional development; and provided,
175 further, that the report shall be provided to the clerks of the senate and house of representatives
176 who shall forward the same to the chairs of the house and senate committees on ways and means
177 and the house and senate chairs of the joint committee on education not later than August 31,
178 2010.

179 SECTION 11. The fourth paragraph of subsection (d) of section 70O of Chapter 71 of the
180 General Laws shall take effect for the 2011-2012 academic year.