

# HOUSE . . . . . No. 4571

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Ten  
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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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