

**HOUSE . . . . . No. 483**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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  
2 37O.

3 Harassment, Intimidation, Bullying and Cyberbullying, prohibited:

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

6 During any education program or activity; or

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

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

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

19 (3) As used in this Section, "electronic communication" means any communication  
20 through an electronic device including a telephone, cellular phone, computer or pager.

21 (b) School Board Requirements and Responsibilities

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

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

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

31 Notice

32 A statement prohibiting discrimination, harassment, intimidation, bullying or  
33 cyberbullying of a student, as defined above;

34 A statement prohibiting retaliation or false accusation against a target, witness or one  
35 with reliable information about an act of bullying, harassment and intimidation;

36 (iii) A requirement that all students are protected regardless of their status under the law;

37 (iv) A statement of how the policy is to be publicized, including requirements that:  
38 annual written notice of the policy is provided to parents, guardians, staff, volunteers, and  
39 students, with age appropriate language for students; the policy is posted throughout all schools  
40 in the district, including but not limited to cafeterias, school bulletin boards, administration  
41 offices, and the school district's Web site; and the policy is included in all student and employee  
42 handbooks;

43 (v) A procedure for providing immediate notification to the parents of a victim of  
44 discrimination, harassment, intimidation, bullying or cyberbullying and the parents of the  
45 perpetrator of discrimination, harassment, intimidation, bullying or cyberbullying;

46 (vi) The identification by job title of school officials responsible for ensuring that the  
47 policy is implemented.

#### 48 Reporting and Investigations

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

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

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

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

61 (v) A procedure for prompt investigation of reports of violations and complaints,  
62 identifying either the principal or the principal's designee as the person responsible for the  
63 investigation;

#### 64 Remedies and Victim Assistance

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

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

70 (iii) A strategy for providing counseling or referral to appropriate services, including

71 guidance, academic intervention, and protection to students, both victims and  
72 perpetrators, and appropriate family members, affected by discrimination, harassment,  
73 intimidation, bullying or cyberbullying, as necessary;

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

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

82 a reasonable person should know, under the circumstances, that the act will have the  
83 effect of harming a student or damaging the student's property, or placing a student in  
84 reasonable fear of harm to his or her person or damage to his or her property; or

85 has the effect of insulting or demeaning any student or group of students in such a way as  
86 to cause substantial disruption in, or substantial interference with, the orderly operation of the  
87 school; or

88 the act is directed specifically at students or school personnel and maliciously  
89 intended for the purpose of disrupting school.

90 (vi) A statement encouraging public schools and school districts to form bullying  
91 prevention task forces, programs, and other initiatives involving school staffs, pupils,

92 administrators, volunteers, parents, law enforcement, community members, and other  
93 shareholders.

94 Training and Assessment

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

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

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

102 The Department of Elementary & Secondary Education shall:

103 Develop a model policy and training materials on the components that should be included  
104 in any district policy;

105 Periodically review school district programs, activities, and services to determine whether  
106 the school boards are complying with this statute;

107 Compile, in conjunction with the Department of Public Health, the Department of Mental  
108 Health and the Attorney General of the Commonwealth, a list of bullying and cyberbullying  
109 prevention resources, existing prevention programs, best practices, techniques, and academic-  
110 based research consistent with section 370 that shall be made available for use by school  
111 districts; such prevention resources, existing prevention programs, best practices, techniques and  
112 academic-based research and sample policies to be updated biennially;

113 Promulgate a set of guidelines and procedures for defining district reporting requirements  
114 for incidents of bullying and cyberbullying;

115 Establish and maintain a central repository for the collection and analysis of information  
116 regarding discrimination, harassment, intimidation, bullying or cyberbullying as defined in this  
117 statute;

118 Report to the state legislature annually on the current levels and nature of harassment,  
119 intimidation, and bullying in the schools and the effectiveness of school policies under this  
120 statute in combating discrimination, harassment, intimidation, bullying or cyberbullying,  
121 including recommendations for appropriate actions to address identified problems.

122 (d) Preclusion

123 This act shall not be interpreted to prevent a victim from seeking redress under any other  
124 available law either civil or criminal.

125 Nothing in this statute is intended to infringe upon the right of a school employee or  
126 student to exercise their right of free speech.

127 (e) Timetable

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