

**SENATE . . . . . No. 2313**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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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. Section 1D of chapter 69 of the General Laws, as appearing in the 2008  
2 Official Edition, is hereby amended by striking out, in lines 30 to 32, inclusive, the following  
3 words “The standards may provide for instruction in the issues of nutrition, physical education,  
4 AIDS education, violence prevention, and drug, alcohol and tobacco abuse prevention.” and  
5 inserting in place thereof the following words:- “The standards may provide for instruction in  
6 the issues of nutrition, physical education, AIDS education, violence prevention, including teen  
7 dating violence, bullying prevention, conflict resolution, and drug, alcohol and tobacco abuse  
8 prevention.”

9           SECTION 2. Section 37H of chapter 71 of the General Laws, as so appearing, is hereby  
10 amended by inserting after the word “department” in line 9 the following sentence:- “The  
11 policies shall also prohibit bullying as defined in section 37O and shall include the bullying  
12 prevention and intervention plan required by section 37O.”

13           SECTION 3. Said section 37H of said chapter 71, as so appearing, is further amended by  
14 inserting after the word “students” in line 26 the following sentence:- “The student handbook

15 shall include an age-appropriate summary of the student-related sections of the bullying  
16 prevention and intervention plan required by section 37O.”

17 SECTION 4. Said chapter 71 is hereby amended by inserting after section 37N the  
18 following section:-

19 Section 37O. (a) As used in this section, the following words shall have the following  
20 meanings unless the context clearly requires otherwise:

21 “Bullying” means the severe or repeated use by one or more students of a written, verbal,  
22 or electronic expression, or a physical act or gesture, or any combination thereof, directed at  
23 another student that has the effect of: (i) causing physical or emotional harm to the other student  
24 or damage to the other student’s property; (ii) placing the other student in reasonable fear of  
25 harm to himself or of damage to his property; (iii) creating a hostile environment at school for  
26 the other student; (iv) infringing on the rights of the other student at school; or (v) materially and  
27 substantially disrupting the education process or the orderly operation of a school.

28 “Cyber-bullying” means bullying through the use of technology or any electronic means.  
29 The use of bullying in this section shall include cyber-bullying.

30 “Hostile environment” means a situation in which bullying causes the school  
31 environment to permeate with intimidation, ridicule or insult that is sufficiently severe or  
32 pervasive to alter the conditions of the student’s education and create an abusive school  
33 environment.

34 “Perpetrator” means the student who engages in bullying or retaliation.

35           “School grounds” means property on which a school building or facility is located or  
36 property that is owned, leased or used by a school district, commonwealth charter school or non-  
37 public school for any school-sponsored activities, functions, programs, instruction or training.

38           “Victim” means the student against whom bullying or retaliation has been perpetrated.

39           (b) Bullying is prohibited on school grounds, property immediately adjacent to school  
40 grounds, at school-sponsored or school-related activities, functions or programs whether on or  
41 off school grounds, at school bus stops, on school buses or other vehicles owned, leased or used  
42 by a district or school, or through the use of technology or an electronic device owned, leased or  
43 used by a school district, commonwealth charter school, or non-public school.

44           Bullying is also prohibited both (i) at a location, activity, function or program that is not  
45 school-related and (ii) through the use of technology or an electronic device that is not owned,  
46 leased or used by a district or school if the act or acts in question create a hostile environment at  
47 school for the victim, infringe on the rights of the victim at school, or materially and  
48 substantially disrupt the education process or the orderly operation of a school.

49           Retaliation against a person who reports bullying, who provides information during an  
50 investigation of bullying, or who is a witness to or has reliable information about bullying is  
51 prohibited.

52           (c) Each school district, commonwealth charter school and non-public school shall  
53 provide age- appropriate instruction on bullying prevention in each grade that is incorporated  
54 into the curriculum of the district or school. The curriculum shall be evidence-based.

55 (d) Each school district, commonwealth charter school and non-public school shall  
56 develop and update a bullying prevention and intervention plan in consultation with teachers,  
57 school staff, professional support personnel, school volunteers, administrators, community  
58 representatives, local law enforcement agencies, students, parents and guardians. The  
59 consultation shall at a minimum include a public comment period. The bullying prevention and  
60 intervention plan shall be updated at least biennially.

61 Each bullying prevention and intervention plan at a minimum shall: (i) include  
62 descriptions of and statements prohibiting bullying, cyber-bullying and retaliation; (ii) establish  
63 clear procedures for students, staff, parents, guardians, and others to report bullying or  
64 retaliation; (iii) include a provision that reports of bullying or retaliation may be made  
65 anonymously; provided, however, that no disciplinary action shall be taken against a student  
66 solely on the basis of an anonymous report; (iv) establish clear procedures for promptly  
67 responding to and investigating reports of bullying or retaliation; (v) identify the range of  
68 disciplinary actions that may be taken against a perpetrator for bullying or retaliation; (vi)  
69 establish clear procedures for restoring a sense of safety for a victim and assessing that student's  
70 needs for protection; (vii) establish strategies for protecting from bullying or retaliation a person  
71 who reports bullying, provides information during an investigation of bullying, or is witness to or  
72 has reliable information about an act of bullying; (viii) establish procedures consistent with state  
73 and federal law for promptly notifying the parents or guardians of a victim and a perpetrator;  
74 provided, however, that the parents or guardians of a victim shall also be notified of the action  
75 taken to prevent any further acts of bullying; and provided further that said procedures must  
76 provide for immediate notification to the local law enforcement agency where criminal charges  
77 may be pursued against the perpetrator; (ix) include a provision that a student who knowingly

78 makes a false accusation of bullying shall be subject to disciplinary action; and (x) include a  
79 strategy for providing counseling or referral to appropriate services for perpetrators and victims  
80 and for appropriate family members of said students.

81 A school district, commonwealth charter school or a non-public school may establish  
82 separate discrimination or harassment policies that include categories of students, and nothing in  
83 this section shall prevent a school district, commonwealth charter school or non-public school  
84 from remediating any discrimination or harassment based on a person's membership in a legally  
85 protected category under local, state or federal law.

86 The bullying prevention and intervention plan may include ongoing professional  
87 development to build the skills of all members of school staff, including but not limited to  
88 educators, administrators, school nurses, cafeteria workers, custodians, and paraprofessionals, to  
89 prevent, identify and respond to bullying. The content of such professional development shall  
90 include, but not be limited to: (i) developmentally appropriate strategies to prevent bullying  
91 incidents; (ii) developmentally appropriate strategies for immediate, effective interventions to  
92 stop bullying incidents;(iii) information regarding the complex interaction and power differential  
93 that can take place between and among the perpetrator, the victim, and any witnesses to the  
94 bullying; (iv) research findings on bullying; (v) information on the incidence and nature of  
95 cyber-bullying; and (vi) internet safety issues as they relate to cyber-bullying.

96 The bullying prevention and intervention plan shall include provisions for educating  
97 parents and guardians about the bullying prevention curriculum of the district or school; how  
98 parents and guardians can reinforce the curriculum at home and support the district or school  
99 prevention and intervention plan; the dynamics of bullying; and online safety and cyber-bullying.

100 (e)(1) Each school district, commonwealth charter school and non-public school shall  
101 provide to students and their parents or guardians, in age-appropriate terms and in the languages  
102 which are most predominant among the students, parents and guardians, annual written notice of  
103 the relevant sections of the bullying prevention and intervention plan.

104 (2) Each school district, commonwealth charter school and non-public school shall  
105 provide to all school staff annual written notice of the bullying prevention and intervention plan.  
106 The faculty and staff at each school shall be trained annually on the bullying prevention and  
107 intervention plan applicable to the school. Relevant sections of the bullying prevention and  
108 intervention plan shall be included in a district or school employee handbook.

109 (3) The bullying prevention and intervention plan shall be posted on the website of each  
110 school district, commonwealth charter school and non-public school.

111 (f) Each school principal or the person who holds a comparable role shall be responsible  
112 for the implementation and oversight of the bullying prevention and intervention plan at his  
113 school.

114 (g) A member of a school staff, including but not limited to an educator, administrator,  
115 school nurse, cafeteria worker, custodian, and paraprofessional, shall immediately report any  
116 instance of bullying or retaliation the staff member has witnessed or become aware of to the  
117 school principal or to the school official identified in the bullying prevention and intervention  
118 plan as responsible for receiving such reports or both. Upon receipt of such a report, the school  
119 principal or a designee shall promptly investigate. If the school principal or a designee  
120 determines that bullying or retaliation has occurred, the school principal or designee shall (i)  
121 notify the local law enforcement agency if the school principal or designee believes that criminal

122 charges may be pursued against the perpetrator; (ii) take appropriate disciplinary action; (iii)  
123 notify the parents or guardians of the perpetrator; and (iv) notify the parents or guardians of the  
124 victim, and to the extent consistent with state and federal law, notify them of the action taken to  
125 prevent any further acts of bullying or retaliation.

126 (h) If an incident of bullying or retaliation involves students from more than one school  
127 district, commonwealth charter school or non-public school, the district or school first informed  
128 of the bullying or retaliation shall promptly notify the appropriate administrator of other district  
129 or school so that both may take appropriate action; provided however that the notification shall  
130 be in compliance with 20 U.S.C. section 1232g.

131 (i) Nothing in this section shall be construed to abridge the rights of students that are  
132 protected by the First Amendment to the Constitution of the United States or by Article XVI, as  
133 amended, of the Constitution of the commonwealth.

134 (j) Nothing in this section shall supersede or replace existing rights or remedies under any  
135 other general or special law, nor shall this section create a private right of action for enforcement  
136 of this section against any public school, school district or the commonwealth.

137 (k) The department of elementary and secondary education, after consultation with the  
138 department of public health, the department of mental health, the attorney general and experts on  
139 bullying, shall (i) publish a model bullying prevention and intervention plan for school districts,  
140 commonwealth charter schools, and non-public schools to consider when creating their own  
141 plans and (ii) compile a list of bullying prevention and intervention resources, evidence-based  
142 curricula, best practices and academic-based research that shall be made available for use by  
143 schools. These resources may include, but shall not be limited to, print, audio, video or digital

144 media; subscription-based online services; and on-site or technology-enabled professional  
145 development and training sessions. The department of elementary and secondary education shall  
146 biennially update the model bullying prevention and intervention plan and the list of these  
147 resources, curricula, best practices and research and shall ensure that they are posted on its  
148 website.

149 SECTION 5. Section 3 of said chapter 71B, as appearing in the 2008 Official Edition, is  
150 hereby amended by adding in line 154 after the word “proficiencies;” the following words: “the  
151 skills and proficiencies needed to avoid and respond to bullying, harassment or teasing;”.

152 SECTION 6. School districts, commonwealth charter schools, and non-public schools  
153 shall have a bullying prevention and intervention plan in compliance with this act and  
154 incorporate the plan into the district code of conduct required by section 37H of chapter 71 of the  
155 General Laws and shall file the plan with the department of elementary and secondary education  
156 not later than December 31, 2010.

157 SECTION 7. The department of elementary and secondary education shall publish  
158 guidelines for the implementation of social and emotional learning curricula in kindergarten  
159 through grade 12 not later than June 30, 2011. For purposes of this section, social and emotional  
160 learning shall mean the processes through which children acquire the knowledge, attitudes, and  
161 skills they need to recognize and manage their emotions, demonstrate caring and concern for  
162 others, establish positive relationships, make responsible decisions, and handle challenging  
163 social situations constructively.