

SENATE No. 604

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely, (BY REQUEST)

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 adoption of the accompanying bill:

An Act to protect residents of subsidized housing developments from bullying; bullying prevention policies and plans; research and demonstration programs..

PETITION OF:

NAME:

Jerry Halberstadt

DISTRICT/ADDRESS:

20 Central St. #504 Peabody MA 01960

SENATE No. 604

By Ms. Lovely (by request), a petition (accompanied by bill, Senate, No. 604) of Jerry Halberstadt for legislation to protect citizens of subsidized housing developments from bullying. Housing.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to protect residents of subsidized housing developments from bullying; bullying prevention policies and plans; research and demonstration programs..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Notwithstanding any general or special law to the contrary of the General Laws is hereby
2 amended by inserting the following section:

3 (a) As used in this section the following words shall, unless the context clearly requires
4 otherwise, have the following meaning:-

5 “abusive conduct” acts, omissions, or both, that a reasonable person would find hostile,
6 based on the severity, nature, and frequency of the conduct, including, but not limited to:
7 repeated infliction of verbal abuse such as the use of derogatory remarks, insults and epithets;
8 verbal or physical conduct of a threatening, intimidating or humiliating nature; attempts to
9 exploit a person’s known psychological or physical vulnerability.

10 “Bullying”, all types of bullying and abuse, including social or psychological as well as
11 physical abuse or harassment. Bullying is the inappropriate (because unsanctioned by law or
12 consent) use of power. Bullying is aggressive behavior that is intentional, repeated, and involves
13 an imbalance of power or strength. Bullying is the repeated use by one or more
14 members,workers, or visitors of the residential community, including staff, management,
15 visitors, or contracted service personnel (e.g. home health aides) or residents of a written, verbal
16 or electronic expression or a physical act or gesture or any combination thereof, directed at a
17 target that: (i) causes physical or emotional harm to the target or damage to the target’s property;
18 (ii) places the target in reasonable fear of harm to himself or of damage to his property; (iii)
19 creates a hostile environment in the residence for the target; (iv) infringes on the rights of the

20 target in the residence; or (v) materially and substantially disrupts the education process or the
21 orderly operation of a school. For the purposes of this section, bullying shall include cyber-
22 bullying. In addition, social bullying or mobbing shall be included.

23 "social bullying" (also relational bullying, mobbing) consists of members of a group
24 hurting someone's reputation or relationships. Social bullying includes: leaving someone out on
25 purpose; telling other [people] not to be friends with someone; spreading rumors about someone;
26 embarrassing someone in public.

27 "Cyber-bullying", bullying through the use of technology or any electronic
28 communication, which shall include, but shall not be limited to, any transfer of signs, signals,
29 writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a
30 wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited
31 to, electronic mail, internet communications, instant messages or facsimile communications.
32 Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator
33 assumes the identity of another person or (ii) the knowing impersonation of another person as the
34 author of posted content or messages, if the creation or impersonation creates any of the
35 conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-
36 bullying shall also include the distribution by electronic means of a communication to more than
37 one person or the posting of material on an electronic medium that may be accessed by one or
38 more persons, if the distribution or posting creates any of the conditions enumerated in clauses
39 (i) to (v), inclusive, of the definition of bullying.

40 "Chronic stress" the response of the brain to unpleasant events for a prolonged period
41 over which an individual perceives they have no control. It involves an endocrine system
42 response in which occurs a release of corticosteroids. This if [continued] for a long time can
43 cause damage to an individual's physical and mental health.

44 "department", Department of Housing and Community Development (DHCD) and or
45 Department of Elder Affairs

46 "Hostile environment", a situation in which bullying causes the residential environment
47 to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to
48 alter the well-being of the target or targets, and/or of the residents and thus interfere with their
49 "right to peaceful enjoyment of their tenancy." Bullying and a hostile environment may cause
50 stress, chronic stress, and numerous psychological and physical ailments.

51 "Landlord," the housing authority or other owner of the building and bearing ultimate
52 responsibility for the management of the building; generally the entity that holds title to the
53 property and directly or indirectly benefits from government support, subsidies, loans, and other
54 help to promote the provision of affordable housing for the residents.

55 "management" including the owner, landlord, and management entity charged with the
56 collection of rents, managing subsidies, and the day-to-day maintenance or supervision of the
57 property.

58 "housing development", including but not limited to multi-family subsidized housing. A
59 residence or housing subsidized in whole or in part by the national, state, or local government or
60 a charitable association providing shelter for elders and/or persons living with a disability; and to
61 include developments with landlords who are a governmental agency, or who receive subsidy or
62 are subject to oversight by governmental agencies and those developments that are privately
63 owned, covering non-profits and for-profit landlords or management.

64 "Plan", a bullying prevention and intervention plan established pursuant to subsection
65 (d).

66 "Perpetrator", a person who engages in bullying or retaliation.

67 "Residential property and grounds", property on which a residential building or facility is
68 located or property that is owned, leased or used by a landlord or management or group of
69 residents for an activity, function, program, instruction or training related to the residential
70 program.

71 "target", a person against whom bullying or retaliation has been perpetrated.

72 REMEDIES TO BULLYING

73 (b) Bullying shall be prohibited: (i) on residential property and grounds, at a
74 management- or owner-sponsored or sanctioned activity, function or program whether on or off
75 residential grounds, or through the use of technology or an electronic device owned, leased or
76 used by a landlord or management and (ii) at a location, activity, function or program that is not
77 residence-related, or through the use of technology or an electronic device that is not owned,
78 leased or used by a landlord or management, if the bullying creates a hostile environment in the
79 residence for the target, infringes on the rights of the target in the residence or materially and
80 substantially disrupts the residential environment or the orderly operation of the residence. The
81 landlord and management are responsible for providing sufficient trained staff to implement the
82 anti-bullying program. Nothing contained herein shall require landlords or managers to staff any
83 non-residence related activities, functions, or programs.

84 Retaliation against a person who reports bullying, provides information during an
85 investigation of bullying, or witnesses or has reliable information about bullying shall be
86 prohibited.

87 (c) Each landlord and management shall provide appropriate instruction on bullying
88 prevention to all staff, workers, managers, representatives of the landlord, and shall diligently

89 inform all residents of their responsibilities to avoid bullying. The curriculum shall be evidence-
90 based.

91 (d) Each landlord and management company shall develop, adhere to and update a plan
92 to address bullying prevention and intervention in consultation with staff, professional support
93 personnel, volunteers, administrators, community representatives, local law enforcement
94 agencies, residents, and their families and guardians, as well as duly organized, representative
95 groups of residents. The consultation shall include, but not be limited to, notice and a public
96 comment period. The plan shall be updated at least biennially.

97 Each plan shall include, but not be limited to: (i) descriptions of and statements
98 prohibiting bullying, cyber-bullying and retaliation; (ii) clear procedures for residents, staff,
99 relatives, guardians and others to report bullying or retaliation; (iii) a provision that reports of
100 bullying or retaliation may be made anonymously; provided, however, that no disciplinary action
101 shall be taken against a person solely on the basis of an anonymous report; (iv) clear procedures
102 for promptly responding to and investigating reports of bullying or retaliation; (v) the range of
103 disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided,
104 however, that the disciplinary actions shall balance the need for accountability with the need to
105 teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a target and
106 assessing that target's needs for protection; (vii) strategies for protecting from bullying or
107 retaliation a person who reports bullying, provides information during an investigation of
108 bullying or witnesses or has reliable information about an act of bullying; (viii) procedures
109 consistent with state and federal law for promptly notifying the relatives or guardians of a target
110 and a perpetrator; provided, further, that the relatives or guardians of a target shall also be
111 notified of the action taken to prevent any further acts of bullying or retaliation; and provided,
112 further, that the procedures shall provide for immediate notification pursuant to regulations
113 promulgated under this subsection by the building manager or person who holds a comparable
114 role to the local law enforcement agency when criminal charges may be pursued against the
115 perpetrator; (ix) a provision that a resident who knowingly makes a false accusation of bullying
116 or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or
117 referral to appropriate services for perpetrators and targets and for appropriate family members
118 of said people. The plan shall afford all residents the same protection regardless of their status
119 under the law.

120 A landlord or management may establish separate discrimination or harassment policies
121 that include categories of residents. Nothing in this section shall prevent a landlord or
122 management from remediating any discrimination or harassment based on a person's
123 membership in a legally protected category under local, state or federal law.

124 The plan for a residential development shall include a provision for ongoing professional
125 development to build the skills of all staff members to prevent, identify and respond to bullying.
126 The content of such professional development shall include, but not be limited to: (i) appropriate

127 strategies to prevent bullying incidents; (ii) appropriate strategies for immediate, effective
128 interventions to stop bullying incidents; (iii) information regarding the complex interaction and
129 power differential that can take place between and among a perpetrator, target and witnesses to
130 the bullying; (iv) research findings on bullying, including information about specific categories
131 of persons who have been shown to be particularly at risk for bullying in the residential
132 environment; (v) information on the incidence and nature of cyber-bullying; and (vi) internet
133 safety issues as they relate to cyber-bullying. The department shall identify and offer
134 information on alternative methods for fulfilling the professional development requirements of
135 this section, at least 1 of which shall be available at no cost to landlords and management.

136 The department shall promulgate rules and regulations on the requirements related to a
137 manager's duties under clause (viii) of the second paragraph of this subsection. A landlord shall
138 develop procedures for immediate notification by the manager or person who holds a comparable
139 role to the local law enforcement agency when criminal charges may be pursued against the
140 perpetrator.

141 (e)(1) Each landlord and manager shall provide to residents, relatives, or guardians, in the
142 languages which are most prevalent among the residents, relatives, or guardians, annual written
143 notice of the relevant sections of the plan.

144 (2) Each landlord and manager shall provide to all school staff annual written notice of
145 the plan. The staff at each residence shall be trained annually on the plan applicable to the
146 residence. Relevant sections of the plan relating to the duties of staff shall be included in an
147 employee handbook.

148 (3) The plan shall be posted on the website of each landlord or management.

149 (f) Each manager or the person who holds a comparable position shall be responsible for
150 the implementation and oversight of the plan at their residential building(s).

151 (g) A member of a residence staff, including but not limited to a visiting worker,
152 professional, or paraprofessional, shall immediately report any instance of bullying or retaliation
153 the staff member has witnessed or become aware of to the manager or to the landlord's
154 representative identified in the plan as responsible for receiving such reports or both. Upon
155 receipt of such a report, the manager or a designee shall promptly conduct an investigation. If the
156 manager or a designee determines that bullying or retaliation has occurred, the manager or
157 designee shall (i) notify the local law enforcement agency if the manager or designee believes
158 that criminal charges may be pursued against a perpetrator; (ii) take appropriate disciplinary
159 action; (iii) notify the relatives or guardians of a perpetrator; and (iv) notify the relatives or
160 guardians of the target, and to the extent consistent with state and federal law, notify them of the
161 action taken to prevent any further acts of bullying or retaliation.

162 (h).The *department*shall establish an independent ombudsman office with full authority
163 and resources to investigate and act on allegations of bullying, and the ability to hold landlords
164 and management to account, and the ability to protect persons making complaints.

165 (i) Nothing in this section shall supersede or replace existing rights or remedies under any
166 other general or special law.

167 (j) The department, after consultation with the department of public health, the
168 department of mental health, the attorney general, the Massachusetts District Attorneys
169 Association and experts on bullying shall: (i) publish a model plan for managers and landlords to
170 consider when creating their plans; and (ii) compile a list of bullying prevention and intervention
171 resources, evidence-based curricula, best practices and academic-based research that shall be
172 made available to landlords, managers,and residents. The resources may include, but shall not be
173 limited to, print, audio, video or digital media; subscription based online services; and on-site or
174 technology-enabled professional development and training sessions. The department shall
175 biennially update the model plan and the list of the resources, curricula, best practices and
176 research and shall post them on its website.

177 (k) The department shall support research on the causes, effects, and remedies to bullying
178 in housing development housing for elders and persons living with disabilities. The department
179 shall sponsor and evaluate a variety of demonstration programs in order to continuously develop
180 and improve on best practices. Agencies and experts in the fields of mental health, law
181 enforcement, social psychology, social science, social work, mental health, geriatrics, disability,
182 and other relevant fields, in addition to residents shall be involved in helping determine the scope
183 and focus of these programs of research and intervention. These programs shall be used to
184 inform model plans and best practices.

185 (L) The department shall have the authority to hear complaints and to hold administrative
186 hearings and to sanction landlords who fail to diligently follow the procedures laid down in this
187 bill. Sanctions may include fines, reductions in "Good Standing", restrictions on future state
188 funding, and in extreme cases shall be forwarded to the appropriate legal authorities for possible
189 prosecution.

190 (m) At every stage, the department, landlord, and management shall recognize and seek
191 the advice and input of residents, especially including from tenants' associations that meet
192 regularly, are open to participation by all residents, operate democratically, and are independent
193 of management.

194 (n) Nothing in this bill shall diminish the rights of individuals to persue compensation for
195 alleged damages through private or class actions.