

**SENATE . . . . . No. 604**

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**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.