

HOUSE No. 3868

The Commonwealth of Massachusetts

PRESENTED BY:

Sally P. Kerans and Joan B. Lovely

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 create the office of the tenant advocate in the Office of the Attorney General.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>1/19/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>1/19/2023</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>	<i>1/26/2023</i>
<i>Samantha Montañó</i>	<i>15th Suffolk</i>	<i>4/27/2023</i>

HOUSE No. 3868

By Representative Kerans of Danvers and Senator Lovely, a joint petition (accompanied by bill, House, No. 3868) of Sally P. Kerans, Joan B. Lovely and others relative to establishing the office of the tenant advocate in the Office of the Attorney General. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to create the office of the tenant advocate in the Office of the Attorney General.

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

1 Chapter 12 of the General Laws is hereby amended by adding the following section:-

2 Section 36. (a) The following terms, as used in this chapter, shall, unless the context
3 requires otherwise, have the following meanings:-

4 “Bullying”, any mode of communication to hurt and demean the target or victim. It is
5 aggression and an effort to control that is used to make the target or victim do, or not do, the
6 bidding of the perpetrator. An individual or group can mobilize members of the community to
7 use gossip, social pressures and isolation as part of a bullying effort. Bullying harms and controls
8 the target or victim and takes away their rights, dignity, self-respect, health and well-being.
9 Bullying takes away the right of peaceful enjoyment.

10 “Hostile environment harassment”, unwelcome conduct creating a situation that makes it
11 difficult or impossible for victims to have the peaceful enjoyment of their residency. Hostile
12 environment harassment exists when a person was subjected to unwelcome spoken, written or

13 physical conduct and the conduct was sufficiently severe or pervasive as to interfere with or
14 deprive the victim of their right to use and enjoy the housing. A determination of whether this
15 standard has been met is to be based on the totality of the circumstances. Whether a hostile
16 environment harassment violation has occurred is a fact-specific inquiry. Hostile environment
17 harassment shall include, but not be limited to, bullying or mobbing. Hostile environment
18 harassment can be written, verbal or other conduct and does not require physical contact. A
19 single incident of harassment may constitute hostile environment harassment, where the incident
20 is sufficiently severe to create a hostile environment.

21 (1) Factors to be considered to determine whether hostile environment harassment exists
22 include but are not limited to, the nature of the conduct, the context in which the incident
23 occurred, the severity, scope, frequency, duration and location of the conduct and the
24 relationships of the persons involved.

25 (2) Neither psychological nor physical harm must be demonstrated to prove that a hostile
26 environment exists. Evidence of psychological or physical harm may, however, be relevant in
27 determining whether a hostile environment existed and, if so, the amount of damages to which an
28 aggrieved person may be entitled.

29 (3) Whether unwelcome conduct is sufficiently severe or pervasive as to create a hostile
30 environment is evaluated from the perspective of a reasonable person in the aggrieved person's
31 position.

32 “Mobbing”, consists of a group or community harassing and bullying a victim through
33 cooperative or aggressive behavior, including in order to get them to leave their residence. In
34 housing, mobbing can be initiated, condoned or supported by a landlord or housing authority.

35 “Peaceful enjoyment”, the right to enjoy the use of a resident’s home and common spaces
36 without interference. The landlord or the housing authority is legally responsible for assuring the
37 peaceful enjoyment of all tenants.

38 (b) There shall be within the office of the attorney general, an office of the tenant
39 advocate. The attorney general, through the office of the tenant advocate, may intervene, appear
40 and participate in administrative, regulatory, or judicial proceedings on behalf of all tenants
41 living in public or subsidized housing to protect the tenants’ rights as tenants to the peaceful
42 enjoyment of their residence and investigate, correct and hold landlords or housing authorities
43 accountable for hostile environment harassment.