

HOUSE No. 428

The Commonwealth of Massachusetts

PRESENTED BY:

Bradford R. Hill

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 passage of the accompanying bill:

An Act relative to bullying in schools.

PETITION OF:

NAME:

Bradford R. Hill

DISTRICT/ADDRESS:

4th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 454 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 I – Legislative Findings

2 The Legislature finds that a safe and civil environment in school is necessary for students to learn and
3 achieve high academic standards. The Legislature finds that harassment, intimidation or bullying, like
4 other disruptive or violent behavior, is conduct that disrupts both a student’s ability to learn and a
5 school’s ability to educate its students in a safe, nonthreatening environment.

6 The legislature further finds that students learn by example. The legislature charges school
7 administrators, faculty, staff and volunteers with demonstrating appropriate behavior, treating others with
8 civility and respect, and refusing to tolerate harassment, intimidation or bullying.

9 SECTION II – Definitions

10 As used in this article, “harassment, intimidation or bullying” means any intentional gesture or any
11 intentional written, verbal or physical act or threat that:

- 12 (a) a reasonable person, under the circumstances, should know would have the effect of:
- 13 (1) Harming a student;
- 14 (2) Damaging a student’s property;
- 15 (3) Placing a student in reasonable fear of harm to his or her person; or
- 16 (4) Placing a student in reasonable fear of damage to his or her property; or
- 17 (b) is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or
18 abusive educational environment for a student.

19 SECTION III – Policy prohibiting harassment, intimidation or bullying

- 20 (a) Each county/school board of education shall establish a policy prohibiting harassment,
21 intimidation or bullying. Each county/school board has control over the content of its
22 policy as long as the policy contains, at a minimum, the requirements of subdivision (b)

23 of this section. The policy shall be adopted through a process that includes representation
24 of parents or guardians, school employees, school volunteers, students and community
25 members.

- 26 (b) Each county/school board policy shall, at a minimum, include the following components:
- 27 (1) A statement prohibiting harassment, intimidation or bullying of any student on
28 school property, on a school bus or other school-related vehicle, at an official
29 school bus stop, or at a school-sponsored activity or event whether or not it is
30 held on school premises;
 - 31 (2) A definition of harassment, intimidation or bullying no less inclusive than that in
32 section two of this article;
 - 33 (3) A description of the type of behavior expected from each student;
 - 34 (4) Consequences and appropriate remedial action for a person who commits an act
35 of harassment, intimidation, or bullying;
 - 36 (5) A procedure for reporting an act of harassment, intimidation, or bullying,
37 including a provision that permits a person to report an act of harassment,
38 intimidation, or bullying anonymously. However, this subdivision shall not be
39 construed to permit formal disciplinary action solely based on an anonymous
40 report;
 - 41 (6) A requirement that school personnel report prohibited incidents of which they are
42 aware;
 - 43 (7) A procedure for responding to any reported act of harassment, intimidation, or
44 bullying;
 - 45 (8) A procedure for prompt investigation of reports of violations and complaints,
46 identifying either the principal or the principal's designee as the person
47 responsible for the investigation;
 - 48 (9) A requirement that parents or guardians of any student involved in an incident
49 prohibited pursuant to this article be notified;
 - 50 (10) The range of ways in which a school will respond once an incident of
51 harassment, intimidation, or bullying is identified and
 - 52 (11) A procedure for documenting any prohibited incident that is reported.
 - 53 (12) A statement that prohibits reprisal or retaliation against any person who reports
54 an act of harassment, intimidation, or bullying, and the consequences and
55 appropriate remedial action for a person who engages in that type of reprisal or
56 retaliation;
 - 57 (13) A strategy for protecting a victim from additional harassment, intimidation or
58 bullying, and from retaliation following a report;
 - 59 (14) A procedure for counseling students who have been victims or targets of
60 bullying;
 - 61 (15) Consequences and appropriate remedial action for a person found to have falsely
62 accused another as a means of retaliation or as a means of harassment,
63 intimidation, or bullying;
 - 64 (16) A disciplinary or counseling procedure for any student guilty of harassment,
65 intimidation, or bullying;
 - 66 (17) A requirement that any information relating to a reported incident is confidential,
67 and exempt from disclosure under the provisions of chapter... of this code and
 - 68 (18) A statement of how the policy is to be publicized including notice that the policy
69 applies to participation in school-sponsored activities.
- 70 (c) Each county/school board shall adopt the policy and submit a copy to the state
71 superintendent of schools by the first day of September, in the year which this
72 legislation takes effect.

73 (d) To assist county/school boards in developing their policies, for the prevention of
74 harassment, intimidation, or bullying the Department of Education shall develop
75 a model policy applicable to grades kindergarten through twelfth and post this
76 policy on their website. The model policy shall be issued by the first day of
77 December 2005.

78 (e) Notice of the county/school board's policy shall appear in any
79 student handbooks, and in any county board publication, that sets
80 forth the comprehensive rules, procedures and standards of
81 conduct for its schools, and in its pupil handbooks.

82 SECTION IV – Prohibiting reprisal, retaliation, or false accusation

83 (a) A school administrator, employee, pupil, or volunteer shall not
84 engage in reprisal, retaliation, or false accusation against a victim, witness, or one
85 with reliable information about an act of harassment, intimidation, or bullying.

86 (b) A school administrator, employee, pupil, or volunteer who has
87 witnessed, or has reliable information that a student has been subjected to,
88 harassment, intimidation, or bullying, whether verbal or physical, is encouraged
89 to report the incident to the appropriate school official designated by the school
90 district's or public school academy's policy.

91 SECTION V – Immunity

92 A school employee, student or volunteer is individually immune from a
93 cause of action for damages arising from reporting harassment,
94 intimidation or bullying, or any failure to remedy the reported harassment,
95 intimidation or bullying, if that person:

- 96 (1) In good faith promptly reports an incident of harassment, intimidation or
97 bullying;
98 (2) Makes the report to the appropriate school official designated by the school
99 district's or public school academy's policy and
100 (3) Makes the report in compliance with the procedures as specified in policy
101 prohibiting harassment, intimidation, or bullying.

102 SECTION VI – Policy training and education

- 103 (a) Schools and county/district school boards are encouraged to form bullying
104 prevention task forces, programs and other initiatives involving school staff,
105 students, teachers, administrators, volunteers, parents, law enforcement and
106 community members.
107 (b) Each county/district board or public school academy shall do all of the following:
108 (1) Provide training on the harassment, intimidation, or bullying policy to school
109 employees and volunteers who have direct contact with students; and

- 110 (2) Develop a process for educating students on the harassment, intimidation or
111 bullying policy.
112 (3) Information regarding the county board policy against harassment, intimidation
113 or bullying shall be incorporated into each school’s current employee training
114 program.

115 SECTION VII – Liability

116 Except as provided in section five of this article, nothing in this article prohibits a victim
117 from seeking redress under any other provision of civil or criminal law. This section
118 does not create or alter any tort liability.

119 SECTION VIII – Definitions

- 120 (a) “At school” means in a classroom, elsewhere on or immediately adjacent to school
121 premises, on a school bus or other school-related vehicle, at an official school bus
122 stop, or at a school-sponsored activity or event whether or not it is held on school
123 premises.
124 (b) “Harassment, intimidation, or bullying” means any gesture or written, verbal, or
125 physical act that a reasonable person under the circumstances should know will have
126 the effect of harming a pupil or damaging his or her property or placing a pupil in
127 reasonable fear of harm to his or her person or damage to his or her property, or that
128 has the effect of insulting or demeaning any pupil or group of pupils in such a way as
129 to disrupt or interfere with the school’s educational mission or the education of any
130 pupil. Harassment, intimidation, or bullying includes, but is not limited to, a gesture
131 or written, verbal, or physical act described in this section that is perceived as being
132 motivated by the harasser, intimidator, or bully, for any reason, towards any target or
133 victim.

134 SECTION IX – Accountability to the State Superintendent – Report to Lawmakers

135 Each school district shall report to the superintendent of public instruction by January 31st
136 of each year all incidents, resulting in disciplinary action, involving harassment,
137 intimidation, or bullying, that result in a short or long-term suspension or expulsion on
138 school premises or on transportation systems used by schools, in the year preceding the
139 report. The superintendent shall compile the data and report it to the appropriate
140 committee of the State House and the State Senate.