

HOUSE No. 522

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Heroux

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 prevent and respond to bullying of elderly and disabled residents of public or privately-owned, subsidized multifamily housing developments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

HOUSE No. 522

By Mr. Heroux of Attleboro, a petition (accompanied by bill, House, No. 522) of Paul R. Heroux and others for legislation to prevent and respond to bullying of elderly and disabled residents of public or privately-owned subsidized multifamily housing developments. Elder Affairs.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to prevent and respond to bullying of elderly and disabled residents of public or privately-owned, subsidized multifamily housing developments.

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

3 “Bullying”, the repeated use by one or more residents or employees of, or visitors to, a
4 covered residential community of a written, verbal or electronic expression or a physical act or
5 gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional
6 harm to the victim or damage to the victim’s property; (ii) places the victim in reasonable fear of
7 harm to himself or of damage to his property; (iii) creates a hostile environment for the victim;
8 (iv) infringes on the rights of the victim at a covered residential community; or (v) materially and
9 substantially disrupts the orderly operation of a covered residential community. For the purposes
10 of this section, bullying shall include cyber-bullying, group or social bullying, and mobbing.

11 “Covered residential community”, a public or privately-owned, multifamily residential
12 housing development subsidized in whole or in part by the U.S. Department of Housing and
13 Urban Development or the Commonwealth of Massachusetts and intended for occupancy
14 primarily by elderly persons aged 55 or older and/or persons with disabilities.

15 “Cyber-bullying”, bullying through the use of technology or any electronic
16 communication, which shall include, but shall not be limited to, any transfer of signs, signals,
17 writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a
18 wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited
19 to, electronic mail, internet communications, instant messages or facsimile communications.
20 Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator
21 assumes the identity of another person or (ii) the knowing impersonation of another person as the
22 author of posted content or messages, if the creation or impersonation creates any of the
23 conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-
24 bullying shall also include the distribution by electronic means of a communication to more than
25 one person or the posting of material on an electronic medium that may be accessed by one or
26 more persons, if the distribution or posting creates any of the conditions enumerated in clauses
27 (i) to (v), inclusive, of the definition of bullying.

28 “The Division”, the Public Safety Division of the Commonwealth’s Attorney General’s
29 Office;

30 “Group or social bullying” is the attempt by several persons acting together to engage in
31 bullying conduct toward one or more victims by intentional, repeated, aggressive speech or
32 action capable of causing harm.

33 “Hostile environment”, a situation in which bullying causes the residential environment
34 to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to
35 interfere with a resident’s peaceful enjoyment of their tenancy or rights as a tenant.

36 “Mobbing” is bullying that the owner/manager allows, or that management takes part in,
37 with the purpose of demeaning the victim and excluding them from the social life, quiet
38 enjoyment of occupancy, or occupancy status in a covered residential community .

39 “Owner/managers,” the owner of a covered residential community and/or the property
40 manager or management agent responsible for managing a covered residential community

41 “Plan”, a bullying prevention and intervention plan established pursuant to subsection
42 (d).

43 “Perpetrator”, a person who engages in bullying or retaliation, or an owner/management
44 company whose employees engage in, support or enable bullying, group or social bullying or
45 mobbing.

46 “Residential property and grounds”, property on which a covered residential community
47 is located or property that is owned, leased or used by an owner/manager or group of residents
48 for an activity, function, program, instruction or training related to the operation of the
49 residential community.

50 “Victim”, a person against whom bullying, group or social bullying, mobbing, or
51 retaliation has been perpetrated.

52 (b) Bullying shall be prohibited: (i) on residential property and grounds, at a
53 owner/manager or resident sponsored activity, function or program whether on or off residential

54 grounds or through the use of technology or an electronic device owned, leased or used by an
55 owner/manager (ii) at a location, activity, function or program that is not located within the
56 covered residential community, or through the use of technology or an electronic device that is
57 not owned, leased or used an owner/manager, if the bullying creates a hostile environment in a
58 covered residential community for the victim, infringes on the rights of the victim at a covered
59 residential community or materially and substantially disrupts the orderly operation of a covered
60 residential community. Nothing contained herein shall require an owner/manager to staff any
61 non-residence related activities, functions, or programs.

62 Retaliation against a person who reports bullying, provides information during an
63 investigation of bullying, or witnesses or has reliable information about bullying shall be
64 prohibited.

65 (c) Each owner/manager of a covered residential community shall provide appropriate
66 instruction on bullying prevention to all employees and residents of a covered residential
67 community. The curriculum shall be evidence-based.

68 (d) Each covered residential community shall develop, adhere to and update a plan to
69 address bullying prevention and intervention in consultation with residents, any legitimate
70 residents' association as defined by 24 CFR Part 245, resident support organizations,
71 owner/manager service employees, on-site management staff, professional support personnel,
72 community representatives, local law enforcement agencies, and Division staff. . The
73 consultation shall include, but not be limited to, notice and a public comment period. The plan
74 shall be updated at least biennially.

75 Each plan shall include, but not be limited to: (i) descriptions of and statements
76 prohibiting bullying, group or social bullying, mobbing, cyber-bullying and retaliation; (ii) clear
77 procedures for residents, owner/manager employees, visitors, relatives, partners, guardians and
78 others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may
79 be made anonymously; provided, however, that no disciplinary action shall be taken against a
80 resident or owner/manager employee solely on the basis of an anonymous report; (iv) clear
81 procedures for promptly responding to and investigating reports of bullying or retaliation; (v) the
82 range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation;
83 provided, however, that the disciplinary actions shall balance the need for accountability with the
84 need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a
85 victim and assessing that victim's needs for protection; (vii) strategies for protecting from
86 bullying or retaliation a person who reports bullying, provides information during an
87 investigation of bullying or witnesses or has reliable information about an act of bullying; (viii)
88 procedures consistent with state and federal law for promptly notifying the relatives, partners or
89 guardians of a victim and a perpetrator, if appropriate; provided, further, that the relatives,
90 partners and guardians of a victim shall also be notified of the action taken to prevent any further
91 acts of bullying or retaliation, if appropriate; and provided, further, that the procedures shall
92 provide for immediate notification pursuant to regulations promulgated under this subsection by
93 the owner/manager the Division or person who holds a comparable role to the local law
94 enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a
95 provision that a person who knowingly makes a false accusation of bullying or retaliation shall
96 be subject to disciplinary action; and (x) a strategy for providing counseling or referral to
97 appropriate services for perpetrators and victims and for appropriate family members of said

98 residents. The plan shall afford all residents the same protection regardless of their status under
99 the law.

100 An owner/manager may establish separate discrimination or harassment policies that
101 include categories of residents. Nothing in this section shall prevent an owner/manager from
102 remediating any discrimination or harassment based on a person's membership in a legally
103 protected category under local, state or federal law.

104 The plan for a covered residential community shall include a provision for ongoing
105 professional development to build the skills of all employees, including, but not limited to, on-
106 site managers, social service or resident service coordinators, maintenance and office clerical
107 staff, to prevent, identify and respond to bullying. The content of such professional development
108 shall include, but not be limited to: (i) appropriate strategies to prevent bullying incidents; (ii)
109 appropriate strategies for immediate, effective interventions to stop bullying incidents; (iii)
110 information regarding the complex interaction and power differential that can take place between
111 and among a perpetrator, victim and witnesses to the bullying; (iv) research findings on bullying,
112 including information about specific categories of residents who have been shown to be
113 particularly at risk for bullying in the environment or covered residential communities; (v)
114 information on the incidence and nature of cyber-bullying; and (vi) internet safety issues as they
115 relate to cyber-bullying. The Division shall identify and offer information on alternative methods
116 for fulfilling the professional development requirements of this section, at least 1 of which shall
117 be available at no cost to owners/managers of covered residential communities.

118 The plan shall include provisions for informing relatives, partners and guardians about
119 the bullying prevention curriculum of the covered residential community and shall include, but

120 not be limited to: (i) how relatives, partners and guardians can reinforce the curriculum and
121 support the owner/manager or Division plan; (ii) the dynamics of bullying; and (iii) online safety
122 and cyber-bullying.

123 The Division shall promulgate rules and regulations on the requirements related to an
124 owner/agent's duties under clause (viii) of the second paragraph of this subsection A. .

125 (e)(1) Each owner/manager shall provide to residents, their partners, relatives and
126 guardians, in appropriate terms and in the languages which are most prevalent among the
127 residents, parents, children, partners or guardians, annual written notice of the relevant resident-
128 related sections of the plan.

129 (2) Each owner/manager shall provide to all employees of a covered residential
130 community annual written notice of the plan. The employees at each covered residential
131 community shall be trained annually on the plan. Relevant sections of the plan relating to the
132 duties of employees shall be included in an owner/agent employee handbook.

133 (3) The plan shall be posted on the website of each owner/manager of a covered
134 residential community.

135 (f) Each owner/manager shall be responsible for the implementation and oversight of the
136 plan at his or her covered residential community.

137 (g) Any employee of a covered residential community, including on-site management
138 staff, social service or resident service coordinator, maintenance or clerical staff, shall
139 immediately report any instance of bullying or retaliation the staff member has witnessed or
140 become aware of to owner/manager official identified in the plan as responsible for receiving

141 such reports or both. Upon receipt of such a report, the owner/manager or a designee shall
142 promptly conduct an investigation. If the owner/manager or a designee determines that bullying
143 or retaliation has occurred, the owner/manager or designee shall (i) notify the local law
144 enforcement agency if the owner/manager or designee believes that criminal charges may be
145 pursued against a perpetrator; (ii) take appropriate disciplinary action; (iii) notify the relatives,
146 partners or guardians of a perpetrator, as appropriate; and (iv) notify the relatives, partners or
147 guardians of the victim, as appropriate, and to the extent consistent with state and federal law,
148 notify them of the action taken to prevent any further acts of bullying or retaliation.

149 (h) If an incident of bullying or retaliation involves residents from more than one covered
150 residential communities, the owner/manager representative first informed of the bullying or
151 retaliation shall, consistent with state and federal law, promptly notify the appropriate
152 administrator of the other covered residential community so that both may take appropriate
153 action. If an incident of bullying or retaliation occurs on the grounds of a covered residential
154 community and involves a former resident or employee who is no longer involved in a covered
155 residential community, the owner/manager informed of the bullying or retaliation shall contact
156 law enforcement consistent with the provisions of clause (viii) of the second paragraph of
157 subsection (d).

158 (i) Nothing in this section shall supersede or replace existing rights or remedies under any
159 other general or special law, nor shall this section create a private right of action.

160 (j) The Division, after consultation with the department of public health, the department
161 of mental health, the department of elder affairs, the office on disability, the department of
162 housing and community development, Mass Housing, the Massachusetts District Attorneys

163 Association, representatives of areawide tenant organizations representing residents of covered
164 residential communities, representatives of area wide associations of resident service
165 coordinators and owner/managers, and experts on bullying, group or social bullying, and
166 mobbing shall: (i) publish a model plan for owner/managers to consider when creating their
167 plans; and (ii) compile a list of bullying prevention and intervention resources, evidence-based
168 curricula, best practices and academic-based research that shall be made available to covered
169 residential communities. .. The resources may include, but shall not be limited to, print, audio,
170 video or digital media; subscription based online services; and on-site or technology-enabled
171 professional development and training sessions. The Division shall biennially update the model
172 plan and the list of the resources, curricula, best practices and research and shall post them on its
173 website.