

HOUSE No. 3909

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 24, 2014.

The committee on Ways and Means, to whom was referred the Bill relative to bullying in schools (House, No. 3721), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3909).

For the committee,

BRIAN S. DEMPSEY.

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In the Year Two Thousand Fourteen

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 1. Subsection (d) of section 37O of chapter 71 of the General Laws, as
2 appearing in the 2012 Official Edition, is hereby amended by inserting after the word
3 “retaliation”, in line 89, the following:- , including procedures for collecting, maintaining and
4 reporting bullying incident data required under subsection (k).

5 SECTION 2. Said section 37O of said chapter 71, as so appearing, is hereby amended by
6 striking out subsection (d) and inserting in place thereof the following subsection:-

7 (d)(1) Each school district, charter school, non-public school, approved private day or
8 residential school and collaborative school shall develop, adhere to and update a plan to address
9 bullying prevention and intervention in consultation with teachers, school staff, professional
10 support personnel, school volunteers, administrators, community representatives, local law
11 enforcement agencies, students, parents and guardians. The plan shall apply to students and
12 members of a school staff, including, but not limited to, educators, administrators, school nurses,
13 cafeteria workers, custodians, bus drivers, athletic coaches, advisors to an extracurricular activity
14 and paraprofessionals. The consultation shall include, but not be limited to, notice and a public
15 comment period; provided, however, that a non-public school shall only be required to give
16 notice to and provide a comment period for families that have a child attending the school. The
17 plan shall be updated at least biennially.

18 (2) Each plan shall include, but not be limited to: (i) descriptions of and statements
19 prohibiting bullying, cyber-bullying and retaliation; (ii) clear procedures for students, staff,
20 parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of
21 bullying or retaliation may be made anonymously; provided, however, that no disciplinary action
22 shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures
23 for promptly responding to and investigating reports of bullying or retaliation; (v) the range of

24 disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided,
25 however, that the disciplinary actions shall balance the need for accountability with the need to
26 teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and
27 assessing that victim's needs for protection; (vii) strategies for protecting from bullying or
28 retaliation a person who reports bullying, provides information during an investigation of
29 bullying or witnesses or has reliable information about an act of bullying; (viii) procedures
30 consistent with state and federal law for promptly notifying the parents or guardians of a victim
31 and a perpetrator; provided, further, that the parents or guardians of a victim shall also be
32 notified of the action taken to prevent any further acts of bullying or retaliation; and provided,
33 further, that the procedures shall provide for immediate notification pursuant to regulations
34 promulgated under this subsection by the principal or person who holds a comparable role to the
35 local law enforcement agency when criminal charges may be pursued against the perpetrator;
36 (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation
37 shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to
38 appropriate services for perpetrators and victims and for appropriate family members of said
39 students. The plan shall afford all students the same protection regardless of their status under
40 the law.

41 (3) Each plan shall recognize that certain students may be more vulnerable to become
42 targets of bullying, harassment, or teasing based on actual or perceived differentiating
43 characteristics, including race, color, religion, ancestry, national origin, sex, socioeconomic
44 status, homelessness, academic status, gender identity or expression, physical appearance,
45 pregnant or parenting status, sexual orientation, or mental, physical, developmental, or sensory
46 disability, or by association with a person who has or is perceived to have one or more of these
47 characteristics. The plan shall include the specific steps that each school district, charter school,
48 non-public school, approved private day or residential school and collaborative school shall take
49 to support vulnerable students and provide all students with the skills, knowledge, and strategies
50 to prevent or respond to bullying, harassment, or teasing. A school district, charter school, non-
51 public school, approved private day or residential school or collaborative school may establish
52 separate discrimination or harassment policies that include additional categories of students.
53 Nothing in this section shall alter the obligations of a school district, charter school, non-public
54 school, approved private day or residential school or collaborative school to remediate any
55 discrimination or harassment based on a person's membership in a legally protected category
56 under local, state or federal law.

57 (4) The plan for a school district, charter school, approved private day or residential
58 school and collaborative school shall include a provision for ongoing professional development
59 to build the skills of all staff members, including, but not limited to, educators, administrators,
60 school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to
61 extracurricular activities and paraprofessionals, to prevent, identify and respond to bullying. The
62 content of such professional development shall include, but not be limited to: (i) developmentally

63 appropriate strategies to prevent bullying incidents; (ii) developmentally appropriate strategies
64 for immediate, effective interventions to stop bullying incidents; (iii) information regarding the
65 complex interaction and power differential that can take place between and among a perpetrator,
66 victim and witnesses to the bullying; (iv) research findings on bullying, including information
67 about specific categories of students who have been shown to be particularly at risk for bullying
68 in the school environment; (v) information on the incidence and nature of cyber-bullying; and
69 (vi) internet safety issues as they relate to cyber-bullying. The department shall identify and offer
70 information on alternative methods for fulfilling the professional development requirements of
71 this section, at least 1 of which shall be available at no cost to school districts, charter schools,
72 approved private day or residential schools and collaborative schools.

73 (5) The plan shall include provisions for informing parents and guardians about the
74 bullying prevention curriculum of the school district or school and shall include, but not be
75 limited to: (i) how parents and guardians can reinforce the curriculum at home and support the
76 school district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-
77 bullying.

78 (6) The department shall promulgate rules and regulations on the requirements related to
79 a principal's duties under clause (viii) of the second paragraph of this subsection; provided, that
80 school districts, charter schools, approved private day or residential schools and collaborative
81 schools shall be subject to the regulations. A non-public school shall develop procedures for
82 immediate notification by the principal or person who holds a comparable role to the local law
83 enforcement agency when criminal charges may be pursued against the perpetrator.

84 SECTION 3. Subsection (g) of said section 370 of said chapter 71, as so appearing, is
85 hereby amended by inserting after the word "retaliation", in line 192, the following:- ; and (v)
86 inform the parents or guardians of the victim about the department's problem resolution system
87 and the process for seeking assistance or filing a claim through the problem resolution system.

88 SECTION 4. Said section 370 of said chapter 71, as so appearing, is hereby further
89 amended by inserting after subsection (j) the following subsections:-

90 (k) Each school district, charter school, approved private day or residential school and
91 collaborative school shall annually report bullying incident data to the department. The data shall
92 include, but not be limited to: (i) the number of reported allegations of bullying or retaliation; (ii)
93 the number and nature of substantiated incidents of bullying or retaliation; (iii) the number of
94 students disciplined for engaging in bullying or retaliation; and (iv) any other information as may
95 be required by the department. Bullying incident data shall be annually reported to the
96 department in a form and manner prescribed by the department, in consultation with the attorney
97 general, provided that the department may use existing data collection and reporting mechanisms
98 to collect such information from school districts. The department shall analyze the bullying
99 incident data and shall publish an annual report containing aggregate, statewide information on

100 the frequency and nature of bullying in schools. The department shall file such annual report
101 with the attorney general and with the clerks of the senate and the house of representatives who
102 shall forward the same to the chairs of the joint committee on education, the chairs of the joint
103 committee on the judiciary, and the chairs of the house and senate committees on ways and
104 means.

105 (l) The department shall develop a student survey to assess school climate and the
106 prevalence, nature and severity of bullying in schools. The student survey shall also assist in
107 assessing the effectiveness of bullying prevention curricula and instruction developed and
108 administered under subsection (c) of section 370 of chapter 71. The survey shall be administered
109 by each school district, charter school, approved private day or residential school and
110 collaborative school at least once every three years. The survey shall be designed to protect
111 student privacy and allow for anonymous participation by students.

112 The completed surveys shall be collected by the school official identified in the plan as
113 responsible for receiving reports of bullying or retaliation, who shall review the student surveys
114 in order to identify patterns of bullying and retaliation and to evaluate the effectiveness of the
115 school's bullying prevention and intervention efforts. All completed surveys shall be forwarded
116 to the department. The department shall collect and analyze the student survey data in order to
117 compare the survey results with the bullying incident data reported under subsection (k), identify
118 long-term trends and areas of improvement, and monitor bullying prevention efforts in schools
119 over time.

120 SECTION 5. The department of elementary and secondary education shall develop the
121 student survey required under section 4 of this act within 12 months of the effective date of this
122 act.