SENATE . . . . . No. 2168

Senate, March 3, 2016 -- Text of the Senate Bill eliminating archaic language pertaining to individuals with disabilities in the Commonwealth of Massachusetts (Senate, No. 2168) (being the text of Senate, No. 2141, printed as amended)

The Commonwealth of Massachusetts

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

An Act updating terminology and investigative practices related to the protection of persons with a disability.

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

SECTION 1. Section 19 of chapter 19B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in lines 126, 139, 280 and 281, 305, 384, 390 and 391, and in lines 394 and 395, the words “disabled persons protection commission” and inserting in place thereof, in each instance, the following words:- commission for the protection of persons with disabilities.

SECTION 1A. Chapter 19C of the General Laws, as so appearing, is hereby amended by striking out the title and inserting in place thereof the following title:- COMMISSION FOR THE PROTECTION OF PERSONS WITH DISABILITIES.

SECTION 1B. Section 1 of said chapter 19C, as so appearing, is hereby amended by striking out, in line 4, the words “disabled person” and inserting in place thereof the following words:- person with a disability.

12 SECTION 2. Said section 1 of said chapter 19C, as so appearing, is hereby further
13 amended by striking out, in line 9, the words “disabled person’s”.

14 SECTION 3. Said section 1 of said chapter 19C, as so appearing, is hereby further
15 amended by striking out, in line 10, the words “a disabled person’s health or welfare” and
16 inserting in place there of the following words:- the health and welfare of a person with a
17 disability.

18 SECTION 4. Said section 1 of said chapter 19C, as so appearing, is hereby further
19 amended by striking out, in line 11, the words “disabled person” and inserting in place thereof
20 the following words:- person with a disability.

21 SECTION 4A. Said section 1 of said chapter 19C, as so appearing, is hereby further
22 amended by striking out, in line 13, the words “disabled persons protection commission” and
23 inserting in place thereof the following words:- commission for the protection of persons with
24 disabilities.

25 SECTION 5. Said section 1 of said chapter 19C, as so appearing, is hereby further
26 amended by striking out the definitions of “Disabled person”, “General counsel” and “Mandated
27 reporter” and inserting in place thereof the following 2 definitions:-

28 “Mandated reporter”, any physician, medical intern, hospital personnel engaged in the
29 examination, care or treatment of persons, medical examiner, dentist, psychologist, nurse,
30 chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator,
31 guidance or family counselor, day care worker, probation officer, social worker, foster parent,
32 police officer, firefighter, paramedic, emergency medical technician or person employed by a
33 state agency as defined by this chapter or employed by a private agency providing services to a

34 person with a disability who, in that person's professional capacity shall have reasonable cause
35 to believe that a person with a disability is suffering from a reportable condition.

36 "Person with a disability", a person between the ages of 18 to 59, inclusive, who is a
37 person with an intellectual or developmental disability as defined by section 1 of chapter 123B or
38 who is otherwise mentally or physically disabled and as a result of that mental or physical
39 disability is wholly or partially dependent on others to meet that person's daily living needs;
40 provided, however, that the term "person with a disability" shall replace the term "disabled
41 person" without changing the meaning.

42 SECTION 6. Said section 1 of said chapter 19C, as so appearing, is hereby further
43 amended by striking out, in lines 38 and 40, the words "disabled person or persons" and inserting
44 in place thereof, in each instance, the following words:- person with a disability.

45 SECTION 7. Said section 1 of said chapter 19C, as so appearing, is hereby further
46 amended by striking out, in line 41, the words "disabled persons" and inserting in place thereof
47 the following words:- persons with a disability.

48 SECTION 8. Said section 1 of said chapter 19C, as so appearing, is hereby further
49 amended by striking out the definition of "State agency" and inserting in place thereof the
50 following definition:-

51 "State agency", any agency of the commonwealth that provides services or treatment to
52 persons with a disability, including a private entity providing such services or treatment pursuant
53 to a contract, license or agreement with an agency of the commonwealth.

54 SECTION 9. Section 2 of said chapter 19C, as so appearing, is hereby amended by
55 striking out in line 2, the first time it appears, the words “disabled persons” and inserting in place
56 thereof the following words:- persons with a disability.

57 SECTION 9A. Said section 2 of said chapter 19C, as so appearing, is hereby further
58 amended by striking out, in lines 2 and 3, the words “disabled persons protection commission”
59 and inserting in place thereof the following words: - commission for the protection of persons
60 with disabilities.

61 SECTION 9B Said section 2 of said chapter 19C, as so appearing is hereby further
62 amended by striking out, in line 5, the words “disabled persons” and inserting in place thereof
63 the following words:- persons with a disability.

64 SECTION 10. Section 3 of said chapter 19C, as so appearing, is hereby amended by
65 striking out, in lines 20 and 21, the words “disabled persons” and inserting in place thereof the
66 following words:- persons with a disability.

67 SECTION 11. Said section 3 of said chapter 19C, as so appearing, is hereby further
68 amended by striking out, in line 22, the word “other”.

69 SECTION 12. Said section 3 of said chapter 19C, as so appearing, is hereby further
70 amended by striking out, in lines 28 and 29, the words “disabled persons” and inserting in place
71 thereof the following words:- persons with a disability.

72 SECTION 13. Said section 3 of said chapter 19C, as so appearing, is hereby further
73 amended by striking out, in line 32, the words “sixty-six and sixty-six A;” and inserting in place
74 thereof the following words:- 66 and 66A; except as otherwise provided in this chapter, all

75 records containing personal data which are created, collected, used, maintained or disseminated
76 pursuant to this chapter shall not be public records and shall be governed by chapter 66A.

77 SECTION 14. Section 4 of said chapter 19C, as so appearing, is hereby amended by
78 striking out, in line 1, the words “disabled person” and inserting in place thereof the following
79 words:- person with a disability, and subject to the commission’s authority to conduct its own
80 investigation.

81 SECTION 15. Said section 4 of said chapter 19C, as so appearing, is hereby further
82 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

83 (b) For the purpose of providing protective services, immediately refer any such reports,
84 which allege the existence of an imminent risk of serious injury to any person with a disability or
85 which allege the occurrence of abuse of a person with a disability whose caretaker is a state
86 agency, to the department within the executive office of health and human services which has
87 jurisdiction over the disability manifested by the person with a disability. As determined and
88 assigned by the commission, either the commission or that agency, subject to the oversight of the
89 commission, shall investigate such abuse as provided in section 5. In a case where a commission
90 investigation is being conducted, the state agency shall take reasonable steps to avoid
91 unnecessary, unwarranted or counterproductive duplication between an internal investigation or
92 inquiry by the agency and the commission’s investigation, by utilizing the commission’s
93 investigation in lieu of an internal investigation conducted by the agency.

94 SECTION 16. Subsection (c) of said section 4 of said chapter 19C, as so appearing, is
95 hereby further amended by striking out the first paragraph and inserting in place thereof the
96 following paragraph:-

97 For the purpose of providing protective services, immediately refer any such reports
98 which allege the existence of imminent risk of serious injury to any person with a disability or
99 which allege the occurrence of abuse of a person with a disability whose caretaker is not a state
100 agency, to the department within the executive office of health and human services which the
101 commission determines, based on the person's disability, would most likely either provide
102 services or treatment to the person with a disability or license an entity to provide or contract
103 with or enter into an agreement to provide services or treatment to the person with a disability.
104 As determined and assigned by the commission, either the commission or the agency, subject to
105 the oversight of the commission, shall investigate such abuse as provided in section 5.

106 SECTION 17. Said section 4 of said chapter 19C, as so appearing, is hereby further
107 amended by striking out, in line 35, the words "disabled person" and inserting in place thereof
108 the following words:- person with a disability.

109 SECTION 18. Said section 4 of said chapter 19C, as so appearing, is hereby further
110 amended by striking out, in line 42, the word "commissioners" and inserting in place thereof the
111 following word:- commission.

112 SECTION 19. Said section 4 of said chapter 19C, as so appearing, is hereby further
113 amended by inserting after the word "of", in line 56, the third time it appears, the following
114 words:- licensed or.

115 SECTION 20. Said section 4 of said chapter 19C, as so appearing, is hereby further
116 amended by striking out, in line 58, the word "department's" and inserting in place thereof the
117 following word:- agency's.

118 SECTION 21. Section 5 of said chapter 19C, as so appearing, is hereby amended by
119 striking out, in line 1, the words “disabled person” and inserting in place thereof the following
120 words:- person with a disability.

121 SECTION 22. Said section 5 of said chapter 19C, as so appearing, is hereby further
122 amended by inserting after the word “designated”, in line 2, the following words:- and assigned.

123 SECTION 23. Said section 5 of said chapter 19C, as so appearing, is hereby further
124 amended by striking out, in lines 2 to 4, inclusive, the words “ , the general counsel, or a
125 department within the executive office of health and human services”.

126 SECTION 24. Said section 5 of said chapter 19C, as so appearing, is hereby further
127 amended by striking out, in lines 7 and 8, the words “counsel or department of mental health or
128 department of public health” and inserting in place thereof the following words:- department of
129 mental health, department of developmental services or the Massachusetts rehabilitation
130 commission.

131 SECTION 25. Said section 5 of said chapter 19C, as so appearing, is hereby further
132 amended by striking out, in line 9, the words “disabled person’s health or safety” and inserting in
133 place thereof the following words:- health or safety of a person with a disability.

134 SECTION 26. Said section 5 of said chapter 19C, as so appearing, is hereby further
135 amended by striking out, in line 12, the words “disabled person’s residence and day program”
136 and inserting in place thereof the following words:- residence and day program of a person with
137 a disability.

138 SECTION 27. Said section 5 of said chapter 19C, as so appearing, is hereby further
139 amended by striking out, in line 13, the words “disabled person” and inserting in place thereof
140 the following words:- person with a disability.

141 SECTION 28. Said section 5 of said chapter 19C, as so appearing, is hereby further
142 amended by striking out, in lines 17 to 19, inclusive, the words “to the general counsel and to the
143 department of mental health and the department of public health” and inserting in place thereof
144 the following words:- and to the department of mental health, department of developmental
145 services or the Massachusetts rehabilitation commission, as appropriate.

146 SECTION 29. Said section 5 of said chapter 19C, as so appearing, is hereby further
147 amended by striking out, in line 33, the words “disabled person” and inserting in place thereof
148 the following words:- person with a disability.

149 SECTION 30. Said section 5 of said chapter 19C, as so appearing, is hereby further
150 amended by striking out, in lines 46 and 47, the words “the general counsel, the department of
151 mental health and the department of public health” and inserting in place thereof the following
152 words:- and to the department of mental health, department of developmental services or the
153 Massachusetts rehabilitation commission, as appropriate,.

154 SECTION 31. Said section 5 of said chapter 19C, as so appearing, is hereby further
155 amended by striking out, in line 50, the words “disabled person” and inserting in place thereof
156 the following words:- person with a disability.

157 SECTION 32. Said section 5 of said chapter 19C, as so appearing, is hereby further
158 amended by striking out, in line 52, the words “, the general counsel”.

159 SECTION 33. Said section 5 of said chapter 19C, as so appearing, is hereby further
160 amended by striking out, in lines 63, 73, 75, 77 and 78, the words “disabled person” and
161 inserting in place thereof, in each instance, the following words:- person with a disability.

162 SECTION 34. Section 6 of said chapter 19C, as so appearing, is hereby amended by
163 striking out the first paragraph and inserting in place thereof the following paragraph:-

164 The commission, acting through state agencies within the executive office of health and
165 human services designated by the commission for the purpose of providing protective services to
166 prevent further abuse in cases investigated pursuant to this chapter and subject to the oversight of
167 the commission, shall:-

168 SECTION 35. Said section 6 of said chapter 19C, as so appearing, is hereby further
169 amended by striking out, in lines 10 and 15, the words “disabled person” and inserting in place
170 thereof, in each instance, the following words:- person with a disability.

171 SECTION 36. Section 7 of said chapter 19C, as so appearing, is hereby amended by
172 striking out, in lines 1 and 2, the words “the general counsel, the department of mental health or
173 the department of public health,” and inserting in place thereof the following words:- the
174 department of mental health, the department of developmental services or the Massachusetts
175 rehabilitation commission.

176 SECTION 37. Said section 7 of said chapter 19C, as so appearing, is hereby further
177 amended by striking out, in line 4, the words “disabled person” and inserting in place thereof the
178 following words:- person with a disability.

179 SECTION 38. Said section 7 of said chapter 19C, as so appearing, is hereby further
180 amended by striking out, in lines 5 and 6, the words “, counsel or department” and inserting in
181 place thereof the following words:- or agency.

182 SECTION 39. Said section 7 of said chapter 19C, as so appearing, is hereby further
183 amended by striking out, in lines 6 and 7, the words “disabled person” and inserting in place
184 thereof the following words:- person with a disability.

185 SECTION 40. Said section 7 of said chapter 19C, as so appearing, is hereby further
186 amended by striking out, in line 9, the words “, counsel or department” and inserting in place
187 thereof the following words:- or agency.

188 SECTION 41. Said section 7 of said chapter 19C, as so appearing, is hereby further
189 amended by striking out, in lines 12, 13, 16, 17 and 18, 20, 21, 22, 29, the words “disabled
190 person” and inserting in place thereof, in each instance, the following words:- person with a
191 disability.

192 SECTION 42. Said section 7 of said chapter 19C, as so appearing, is hereby further
193 amended by striking out, in lines 33 and 34, the words “, counsel or department” and inserting in
194 place thereof the following words:- or agency.

195 SECTION 43. Said section 7 of said chapter 19C, as so appearing, is hereby further
196 amended by striking out, in line 35, the words “disabled person” and inserting in place thereof
197 the following words:- person with a disability.

198 SECTION 44. Said section 7 of said chapter 19C, as so appearing, is hereby further
199 amended by striking out, in line 37, the words “, counsel or department” and inserting in place
200 thereof the following words:- or agency.

201 SECTION 45. Said section 7 of said chapter 19C, as so appearing, is hereby further
202 amended by striking out, in lines 39 and 40, 46, 47 and 48, 59 and 61, the words “disabled
203 person” and inserting in place thereof, in each instance, the following words:- person with a
204 disability.

205 SECTION 46. Said section 7 of said chapter 19C, as so appearing, is hereby further
206 amended by striking out, in line 62, the words “, counsel or department” and inserting in place
207 thereof the following words:- or agency.

208 SECTION 47. Said section 7 of said chapter 19C, as so appearing, is hereby further
209 amended by striking out, in lines 65, 67 and 68, the words “disabled person” and inserting in
210 place thereof, in each instance, the following words:- person with a disability.

211 SECTION 48. Section 8 of said chapter 19C, as so appearing, is hereby amended by
212 striking out, in line 2, the words “disabled person” and inserting in place thereof the following
213 words:- person with a disability.

214 SECTION 49. Said section 8 of said chapter 19C, as so appearing, is hereby further
215 amended by striking out, in line 6, the words “disabled persons” and inserting in place thereof
216 the following words:- persons with a disability.

217 SECTION 50. Section 10 of said chapter 19C, as so appearing, is hereby amended by
218 striking out, in lines 7, 13, 19 and 29, the words “disabled person” and inserting in place thereof,
219 in each instance, the following words:- person with a disability.

220 SECTION 51. Section 11 of said chapter 19C, as so appearing, is hereby amended by
221 striking out, in line 6, the words “, the general counsel”.

222 SECTION 52. Said section 11 of said chapter 19C, as so appearing, is hereby further
223 amended by striking out, in line 9, the words “disabled person” and inserting in place thereof the
224 following words:- person with a disability.

225 SECTION 53. Section 13 of said chapter 19C, as so appearing, is hereby amended by
226 striking out, in line 1, the words “disabled person” and inserting in place thereof the following
227 words:- person with a disability.

228 SECTION 54. Said section 13 of chapter 19C, as so appearing, is hereby further amended
229 by inserting after the word “with”, in line 3, the following words: - or licensed by.

230 SECTION 55. Said section 13 of said chapter 19C, as so appearing, is hereby further
231 amended by striking out, in line 8, the words “disabled person” and inserting in place thereof the
232 following words:- person with a disability.

233 SECTION 56. Section 220 of chapter 111 of the General Laws, as so appearing, is hereby
234 amended by striking out, in lines 20 to 21, the words “disabled persons protection commission”
235 and inserting in place thereof the following words:- commission for the protection of persons
236 with disabilities.