

SENATE No. 81

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 relative to the protection of persons with a disability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John F. Keenan	Norfolk and Plymouth
Tom Sannicandro	7th Middlesex
Thomas J. Calter	12th Plymouth
Elizabeth A. Malia	11th Suffolk
Joseph D. McKenna	18th Worcester
Eric P. Lesser	First Hampden and Hampshire
Michael J. Barrett	Third Middlesex
Viriato M. deMacedo	Plymouth and Barnstable
Anne M. Gobi	Worcester, Hampden, Hampshire and Middlesex
Bradley H. Jones, Jr.	20th Middlesex
Thomas M. Petrolati	7th Hampden
Barbara A. L'Italien	Second Essex and Middlesex
Garrett J. Bradley	3rd Plymouth
Linda Dorcena Forry	First Suffolk
Carolyn C. Dykema	8th Middlesex
Brian A. Joyce	Norfolk, Bristol and Plymouth
Harriette L. Chandler	First Worcester

<i>Walter F. Timitly</i>	<i>7th Norfolk</i>	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>	<i>3/4/2015</i>

SENATE No. 81

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 81) of John F. Keenan, Tom Sannicandro, Thomas J. Calter, Elizabeth A. Malia and other members of the General Court for legislation to the protect persons with a disability. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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

An Act relative 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:

1 SECTION 1. Section 1 of Chapter 19C of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out the words “disabled person” in lines 4, 11
3 and 31, and inserting in place thereof, in each instance, the following words:- “person with a
4 disability”.

5 And is further amended by striking out, in line 9, the words “disabled person’s”.

6 And is further amended by striking out, in line 10, the words “a disabled person’s health
7 or welfare” and inserting in place thereof the following:- “the health or welfare of a person with
8 a disability”.

9 And is further amended by inserting after the first sentence of the fifth paragraph the
10 following sentence:- “The term ‘person with a disability’ should be used in the place of the term
11 ‘disabled person’ without changing the meaning of either.”

12 And is further amended by striking out the sixth paragraph thereof.

13 And is further amended by inserting after the words “police officer,” in line 27, the
14 following words:- “firefighter, paramedic, emergency medical technician”.

15 And is further amended by striking out, in lines 29 through 30, the words “providing
16 services to disabled persons who,” and inserting in place thereof the following words:- “, or an
17 individual providing services to a person with a disability, who”.

18 And is further amended by inserting after the definition of “mandated reporter” the
19 following new definition:-

20 ““Person with a disability”, a person between the ages of eighteen to fifty-nine, inclusive,
21 who is a person with an intellectual disability as defined by section 1 of chapter 123B, or who is
22 otherwise mentally or physically disabled and as a result of such mental or physical disability is
23 wholly or partially dependent on others to meet his daily living needs. The term “person with a
24 disability” replaces the term “disabled person” without changing the meaning.”

25 And is further amended by striking out, in line 37 and 39, the words “disabled person or
26 persons” and inserting in place thereof the following words:- “person or persons with a
27 disability”.

28 And is further amended by striking out the words “disabled persons” in lines 39 and 44,
29 and inserting in place thereof, in each instance, the following words:- “persons with a disability”.

30 And is further amended by inserting after the word “contract,” in line 45, the following
31 word:- “, license”.

32 SECTION 2. Section 2 of said chapter 19C, as so appearing, is hereby amended by
33 striking out the words “disabled persons” in lines 2 and 4, and inserting in place thereof, in each
34 instance, the following words:- “persons with a disability”.

35 SECTION 3. Section 3 of said chapter 19C, as so appearing, is hereby amended by
36 striking out the words “disabled persons” in lines 18 and 26, and inserting in place thereof, in
37 each instance, the following words:- “persons with a disability”.

38 And is further amended by striking out, in line 20, the word “other”.

39 And is further amended by inserting after the word “sixty-six A;” in line 30, the
40 following words: - “except as otherwise provided in this chapter, all records containing personal
41 data which are created, collected, used, maintained or disseminated pursuant to this chapter shall
42 not be public records, and shall be governed by the provisions of chapter sixty six A.”

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

47 And is further amended by striking out subsection (b) and inserting in place thereof the
48 following subsection:-

49 “(b) for the purpose of providing protective services, refer immediately any such reports,
50 which allege the existence of imminent risk of serious injury to any person with a disability, or
51 which allege the occurrence of abuse of a person with a disability whose caretaker is a state
52 agency, to the department within the executive office of health and human services which has

53 jurisdiction over the disability manifested by the person with a disability. As determined and
54 assigned by the commission, either the commission or said agency, subject to the oversight of the
55 commission, shall investigate such abuse as provided in section 5. In all cases where a
56 commission investigation is being conducted, the agency shall take reasonable steps to avoid
57 unnecessary, unwarranted or counterproductive duplication between any internal investigation or
58 inquiry by the agency and the commission’s investigation, by utilizing the commission’s
59 investigation in lieu of an internal investigation conducted by said agency.”

60 And is further amended by striking out the first paragraph of subsection (c) and inserting
61 in place thereof the following:-

62 “(c) for the purpose of providing protective services, refer immediately any such reports
63 which allege the existence of imminent risk of serious injury to any person with a disability, or
64 which allege the occurrence of abuse of a person with a disability whose caretaker is other than a
65 state agency, to the department within the executive office of health and human services which
66 the commission determines, based on the person’s disability, would most likely: (1) provide; (2)
67 license an entity to provide; or (3) contract with or enter into an agreement to provide services or
68 treatment to the person with a disability. As determined and assigned by the commission, either
69 the commission or said agency, subject to the oversight of the commission, shall investigate such
70 abuse as provided in section five.”.

71 And is further amended by striking out, in line 34, the words “disabled person” and
72 inserting in place thereof the following words:- “person with a disability”.

73 And is further amended by striking out, in line 41, the word “commissioners” and
74 inserting in place thereof the following word:- “commission”.

75 And is further amended by inserting after the word “of,” in line 54, the following words: -
76 “licensed or”.

77 And is further amended by striking out, in line 55, the word “department’s” and inserting
78 in place thereof the following word:- “agency’s”.

79 SECTION 5. Section 5 of said chapter 19C, as so appearing, is hereby amended by
80 striking out the words “disabled person” in lines 1, 31, 46, 59, 68 through 69, 70 through 71, and
81 72 through 73, and inserting in place thereof, in each instance, the following words:- “person
82 with a disability”.

83 And is further amended by inserting after the word “designated,” in line 2, the following
84 words:- “and assigned”.

85 And is further amended by striking out, in lines 2 through 3, the words “ , the general
86 counsel, or a department within the executive office of health and human services”.

87 And is further amended by striking out, in lines 7 through 8, the words “counsel or
88 department of mental health or department of public health” and inserting in place thereof the
89 following words:- “department of mental health, department of developmental services, or the
90 Massachusetts rehabilitation commission”.

91 And is further amended by striking out, in line 9, the words “disabled person’s health or
92 safety” and inserting in place thereof the following words:- “health or safety of a person with a
93 disability”.

94 And is further amended by striking out, in line 11, the words “disabled person’s residence
95 and day program” and inserting in place thereof the following words:- “residence and day
96 program of a person with a disability”.

97 And is further amended by striking out, in line 12, the words “disabled person” and
98 inserting in place thereof the following words:- “person with a disability”.

99 And is further amended by striking out, in lines 16 through 17, the words “to the general
100 counsel and to the department of mental health and the department of public health” and
101 inserting in place thereof the following words: - “and to the department of mental health,
102 department of developmental services, or the Massachusetts rehabilitation commission, as
103 appropriate”.

104 And is further amended by striking out, in line 42, the words “the general counsel”.

105 And is further amended by inserting after the word “health,” as first appearing, in line 43,
106 the following words:- “, department of developmental services or the Massachusetts
107 rehabilitation commission, as appropriate,”.

108 And is further amended by striking out, in line 43, the words “and the department of
109 public health”.

110 And is further amended by striking out, in line 48, the words “, the general counsel”.

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

113 “The commission, acting through state agencies within the executive office of health and
114 human services designated by the commission for the purpose of providing protective services to

115 prevent further abuse in cases investigated pursuant to this chapter and subject to the oversight of
116 the commission, shall:-”

117 And is further amended by striking out the words “disabled person” in lines 10 and 15,
118 and inserting in place thereof, in each instance, the following words:- “person with a disability”.

119 SECTION 7. Section 7 of said chapter 19C, as so appearing, is hereby amended by
120 striking out, in lines 1 through 2, the words “the general counsel, the department of mental health
121 or the department of public health,” and inserting in place thereof the following words:- “the
122 department of mental health, the department of developmental services, or the Massachusetts
123 rehabilitation commission”.

124 And is further amended by striking out, in lines 3, 6, 11, 12, 15, twice appearing in line
125 17, in lines 19, 21, 27, 33, 37, 43, 44 through 45, twice appearing in line 56, in lines 57, 62, 64
126 and 65, the words “disabled person” and inserting in place thereof, in each instance, the
127 following words:- “person with a disability”.

128 And is further amended by striking out, in lines 5 and 8, the words “, counsel”.

129 And is further amended by striking out, in lines 5 and 8, the words “department” and
130 inserting in place thereof the following word:- “agency”.

131 And is further amended by striking out, in lines 31 and 35, the words “, counsel”.

132 And is further amended by striking out, in lines 31 through 32, and 35, the words
133 “department” and inserting in place thereof the following word:- “agency”.

134 And is further amended by striking out, in line 58, the word “, counsel”.

135 And is further amended by striking out, in lines 58 through 59, the word “department”
136 and inserting in place thereof the following word:- “agency”.

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

140 And is further amended by striking out, in line 5, the words “disabled persons” and
141 inserting in place thereof the following words:- “persons with a disability”.

142 SECTION 9. Section 10 of said chapter, as so appearing, is hereby amended by striking
143 out, in lines 6 through 7, 12, 18, and 28, the words “disabled person” and inserting in place
144 thereof the following words:- “person with a disability”.

145 SECTION 10. Section 11 of said chapter, as so appearing, is hereby amended by striking
146 out, in line 9, the words “disabled person” and inserting in place thereof the following words:-
147 “person with a disability”.

148 SECTION 11. Section 13 of said chapter, as so appearing, is hereby amended by striking
149 out, in lines 1 and 8, the words “disabled person” and inserting in place thereof the following
150 words:- “person with a disability”.

151 And is further amended by inserting after the word “with,” in line 3, the following words:
152 - “or licensed by”.