

HOUSE No. 1379

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 prohibiting discrimination against adults with disabilities in family and juvenile court proceedings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>

HOUSE No. 1379

By Mr. Heroux of Attleboro, a petition (accompanied by bill, House, No. 1379) of Paul R. Heroux and others relative to prohibiting discrimination against adults with disabilities in family and juvenile court proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act prohibiting discrimination against adults with disabilities in family and juvenile court proceedings.

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. Chapter 208 of the General Laws is hereby further amended by inserting
2 after section 31A the following section:-

3 Section 31B. For the purposes of this chapter the following words shall have the
4 following meanings, unless the context clearly indicates otherwise:-

5 “Adaptive parenting equipment”, includes any piece of equipment or any item that is
6 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

7 “Disability”, a physical or mental impairment that substantially limits one or more major
8 life activities of an individual, a record of such impairment, or being regarded as having such an
9 impairment. This definition shall be broadly interpreted, consistent with the Americans with
10 Disabilities Act Amendments Act of 2008.

11 “Supportive parenting services”, services that help parents with a disability compensate
12 for those aspects of the disability that affect their ability to care for their children and that will
13 enable them to discharge their parental responsibilities. The term includes, but is not limited to,
14 specialized or adapted training, evaluations, and assistance with effective use of adaptive
15 equipment, as well as accommodations that allow a parent with a disability to benefit from other
16 services, such as braille text or sign language interpreters.

17 Nothing in this chapter shall allow a parent’s disability to be considered a factor in a
18 determination of custody of or visitation with a minor child, absent a specific showing by a

19 preponderance of the evidence made by the party raising the allegation, that there is a nexus
20 between the parent’s disability and alleged harm to the child, and that this alleged harm cannot
21 be prevented or alleviated by accommodations for the disability, including adaptive parenting
22 equipment or supportive parenting services.

23 If the court considers a parent’s disability as a factor in an award of custody of and or
24 visitation with a child, the court shall make specific written findings as to the nexus between the
25 parent’s disability and harm to the child, what effect, if any, said harm has on the best interests of
26 the child, and whether or not adaptive parenting equipment or supportive parenting services can
27 alleviate said harm.

28 SECTION 2. Chapter 209C of the General Laws is hereby further amended by inserting
29 after section 10 the following section:-

30 Section 10A. For the purposes of this chapter the following words shall have the
31 following meanings, unless the context clearly indicates otherwise:-

32 “Adaptive parenting equipment”, includes any piece of equipment or any item that is
33 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

34 “Disability”, a physical or mental impairment that substantially limits one or more major
35 life activities of an individual, a record of such impairment, or being regarded as having such an
36 impairment. This definition shall be broadly interpreted, consistent with the Americans with
37 Disabilities Act Amendments Act of 2008.

38 “Supportive parenting services”, services that help parents with a disability compensate
39 for those aspects of the disability that affect their ability to care for their children and that will
40 enable them to discharge their parental responsibilities. The term includes, but is not limited to,
41 specialized or adapted training, evaluations, and assistance with effective use of adaptive
42 equipment, as well as accommodations that allow a parent with a disability to benefit from other
43 services, such as braille text or sign language interpreters.

44 Nothing in this chapter shall allow a parent’s disability to be considered a factor in a
45 determination of custody of or visitation with a minor child, absent a specific showing by a
46 preponderance of the evidence made by the party raising the allegation, that there is a nexus
47 between the parent’s disability and alleged harm to the child, and that this alleged harm cannot
48 be prevented or alleviated by accommodations for the disability, including adaptive parenting
49 equipment or supportive parenting services.

50 If the court considers a parent’s disability as a factor in an award of custody of and or
51 visitation with a child, the court shall make specific written findings as to the nexus between the
52 parent’s disability and harm to the child, what effect, if any, said harm has on the best interests of

53 the child, and whether or not adaptive parenting equipment or supportive parenting services can
54 alleviate said harm.

55 SECTION 3. Section 21 of said chapter 119, as appearing in the 2010 Official Edition, is
56 hereby further amended by inserting after the second paragraph the following paragraph:-

57 “Adaptive parenting equipment”, includes any piece of equipment or any item that is
58 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

59 SECTION 4. Section 21 of said chapter 119, as so appearing, is hereby further amended
60 by inserting after the eleventh paragraph the following paragraph:-

61 “Disability”, a physical or mental impairment that substantially limits one or more major
62 life activities of an individual, a record of such impairment, or being regarded as having such an
63 impairment. This definition shall be broadly interpreted, consistent with the Americans with
64 Disabilities Act Amendments Act of 2008.

65 SECTION 5. Section 21 of said chapter 119, as so appearing, is hereby further amended
66 by inserting after the twenty second paragraph the following paragraph:-

67 “Supportive parenting services”, services that help parents with a disability compensate
68 for those aspects of the disability that affect their ability to care for their children and that will
69 enable them to discharge their parental responsibilities. The term includes, but is not limited to,
70 specialized or adapted training, evaluations, and assistance with effective use of adaptive
71 equipment, as well as accommodations that allow a parent with a disability to benefit from other
72 services, such as braille text or sign language interpreters.”

73 SECTION 6. Chapter 119 of the General Laws is hereby further amended by inserting
74 after section 24 the following section:-

75 Section 24A. Nothing in this chapter shall allow a parent’s disability, as defined in
76 section 21 of this chapter, to be considered a factor in a determination whether a child is in need
77 of care and protection or for the removal of custody of a child from a parent, guardian, or other
78 custodian, absent a specific showing by clear and convincing evidence made by the Department,
79 that there is a nexus between the parent’s disability and alleged harm to the child, and that this
80 alleged harm cannot be prevented or alleviated by accommodations for the disability, including
81 adaptive parenting equipment or supportive parenting services.

82 If the court considers a parent’s disability as a factor in determining that a child is in need
83 of care and protection or for the removal of custody of a child from a parent, guardian, or other
84 custodian, the court shall make specific written findings as to the nexus between the parent’s
85 disability and harm to the child, the impact this has on current parental fitness, and whether or
86 not adaptive parenting equipment or supportive parenting services can alleviate said harm or
87 render the parent fit.

88 SECTION 7. Section 3 of chapter 210 is hereby further amended by striking out
89 subsection (c)(xii), as appearing in the 2010 Official Edition, and inserting in place thereof the
90 following subsection:-

91 Section 3 (c)(xii). a failure of a parent to discharge parental responsibilities, that is
92 reasonably likely to continue for a prolonged, indeterminate period, and that results in harm to
93 the child, and cannot be alleviated by adequate accommodations, including adaptive parenting
94 equipment or supportive parenting services.

95 SECTION 8. Chapter 210 of the General Laws is hereby further amended by inserting
96 after section 3B the following section:-

97 Section 3C. For the purposes of this chapter the following words shall have the following
98 meanings, unless the context clearly indicates otherwise:-

99 “Adaptive parenting equipment”, includes any piece of equipment or any item that is
100 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

101 “Disability”, a physical or mental impairment that substantially limits one or more major
102 life activities of an individual, a record of such impairment, or being regarded as having such an
103 impairment. This definition shall be broadly interpreted, consistent with the Americans with
104 Disabilities Act Amendments Act of 2008.

105 “Supportive parenting services”, services that help parents with a disability compensate
106 for those aspects of the disability that affect their ability to care for their children and that will
107 enable them to discharge their parental responsibilities. The term includes, but is not limited to,
108 specialized or adapted training, evaluations, and assistance with effective use of adaptive
109 equipment, as well as accommodations that allow a parent with a disability to benefit from other
110 services, such as braille text or sign language interpreters.

111 Nothing in this chapter shall allow a parent’s disability to be considered a factor in
112 determining whether to terminate parental rights, absent a specific showing by clear and
113 convincing evidence made by the Department, that there is a nexus between the parent’s
114 disability and alleged harm to the child, and that this alleged harm cannot be prevented or
115 alleviated by accommodations for the disability, including adaptive parenting equipment or
116 supportive parenting services.

117 If the court considers a parent’s disability as a factor in determining whether to terminate
118 parental rights, the court shall make specific written findings as to the nexus between the parent’s
119 disability and harm to the child, the impact this has on current parental fitness, and whether or
120 not adaptive parenting equipment or supportive parenting services can alleviate said harm or
121 render the parent fit.

122 SECTION 9. Section 5-101 of said chapter 190B, as appearing in the 2010 Official
123 Edition, is hereby amended by inserting before the first paragraph the following paragraph:-

124 “Adaptive parenting equipment”, includes any piece of equipment or any item that is
125 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

126 SECTION 10. Section 5-101 of said chapter 190B, as so appearing, is hereby amended
127 by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

128 “Disability”, a physical or mental impairment that substantially limits one or more major
129 life activities of an individual, a record of such impairment, or being regarded as having such an
130 impairment. This definition shall be broadly interpreted, consistent with the Americans with
131 Disabilities Act Amendments Act of 2008.

132 SECTION 11. Section 5-101 of said chapter 190B, as so appearing, is hereby amended
133 by inserting after the twenty fourth paragraph the following paragraph:-

134 “Supportive parenting services”, services that help parents with a disability compensate
135 for those aspects of the disability that affect their ability to care for their children and that will
136 enable them to discharge their parental responsibilities. The term includes, but is not limited to,
137 specialized or adapted training, evaluations, and assistance with effective use of adaptive
138 equipment, as well as accommodations that allow a parent with a disability to benefit from other
139 services, such as braille text or sign language interpreters.

140 SECTION 12. Chapter 190B of the General Laws is hereby amended by inserting after
141 section

142 5-204 the following section:-

143 Section 5-204A. Nothing in this chapter shall allow a parent’s disability to be considered
144 a factor in determining whether to appointment a temporary or permanent guardian for a minor
145 child, absent a specific showing by a clear and convincing evidence made by the party raising the
146 allegation, that there is a nexus between the parent’s disability and alleged harm to the child, and
147 that this alleged harm cannot be prevented or alleviated by accommodations for the disability,
148 including adaptive parenting equipment or supportive parenting services.

149 If the court considers a parent’s disability as a factor in a determination whether to
150 appoint a temporary or permanent guardian for a minor child, the court shall make specific
151 written findings as to the nexus between the parent’s disability and harm to the child, the impact
152 this has on current parental fitness, and whether or not adaptive parenting equipment or
153 supportive parenting services can alleviate said harm or render the parent fit.