

**HOUSE . . . . . No. 121**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Denise Provost***

*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 affirming inclusion of individuals with disabilities within civil rights protections and nondiscrimination provisions in the Commonwealth of Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/15/2015</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/30/2015</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/3/2015</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Byron Rushing</i>	<i>9th Suffolk</i>	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	

**HOUSE . . . . . No. 121**

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By Ms. Provost of Somerville, a petition (accompanied by bill, House, No. 121) of Denise Provost and others for the inclusion of individuals with disabilities within civil rights protections and nondiscrimination protections. Children, Families and Persons with Disabilities.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 144 OF 2013-2014.]

**The Commonwealth of Massachusetts**

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

An Act affirming inclusion of individuals with disabilities within civil rights protections and nondiscrimination provisions in the Commonwealth of Massachusetts.

*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 15F of chapter 6 of the General Laws, as so appearing, is hereby  
2 amended by striking out, in line 2, the words “handicapped persons” and inserting in place  
3 thereof the following words:- people with disabilities.

4           SECTION 2. Section 56 of said chapter 6, as so appearing, is hereby amended by striking  
5 out, in line 44, the words “handicapped persons” and inserting in place thereof the following  
6 words:- people with disabilities.

7           SECTION 3. Section 74 of said chapter 6, as so appearing, is hereby amended by striking  
8 out, in line 6, and in lines 8 and 9, the words “individuals” and inserting in place thereof the

9 phrase “people with disabilities” and by striking out in line 6 the phrase “individuals with  
10 handicaps” and inserting in place thereof the following words:- people with disabilities

11 SECTION 4. Section 76 of said chapter 6, as so appearing, is hereby amended by striking  
12 out, in line 5, the word “individuals with handicaps” and inserting in place thereof the following  
13 word:- people with disabilities.

14 SECTION 5. Section 77 of said chapter 6, as so appearing, is hereby amended by striking  
15 out, in lines 4, 18, 33 and 55, the words “handicapped individual” and inserting in place thereof  
16 the following words:- person with a disability.

17 SECTION 6. Said section 77 of said chapter 6, as so appearing, is hereby further  
18 amended by striking out the words, in line 16, “handicapped individual’s” and inserting in place  
19 thereof the following words:- person with a disability’s.

20 SECTION 7. Said section 77 of said chapter 6, as so appearing, is hereby further  
21 amended by striking out, in lines 24, and in line 35 to 36, the words “handicapped individuals”  
22 inclusive and inserting in place thereof the following words:- people with disabilities.

23 SECTION 8. Said section 77 of said chapter 6, as so appearing, is hereby further  
24 amended by striking out, in line 42, the word “handicapped” and inserting in place thereof the  
25 following word:- people with disabilities.

26 SECTION 9. Said section 77 of said chapter 6, as so appearing, is hereby further  
27 amended by striking out, in line 46, the words “Handicapped person” and inserting in place  
28 thereof the following words:- Person with a disability.

29 SECTION 10. Section 78 of said chapter 6, as so appearing, is hereby amended by  
30 striking out, in lines 3 and 21, the words “handicapped individual” and inserting in place thereof  
31 the following words:- person with a disability.

32 SECTION 11. Said section 78 of said chapter 6, as so appearing, is hereby further  
33 amended by striking out, in lines 8, 14 and 15, the words “handicapped individuals” and  
34 inserting in place thereof the following words:- people with disabilities.

35 SECTION 12. Section 78A of said chapter 6, as so appearing, is hereby amended by  
36 striking out, in lines 2 and 3 and in lines 12 and 13, the words “handicapped persons” and  
37 inserting in place thereof the following words:- people with disabilities.

38 SECTION 13. Section 79 of said chapter 6, as so appearing, is hereby amended by  
39 striking out, in lines 18 and 25, the words “handicapped individuals” and inserting in place  
40 thereof the following words:- people with disabilities.

41 SECTION 14. Said section 79 of said chapter 6, as so appearing, is hereby further  
42 amended by striking out, in line 23, the words “handicapped persons” and inserting in place  
43 thereof the following words:- a person with a disability.

44 SECTION 15. Said section 79 of said chapter 6, as so appearing, is hereby further  
45 amended by striking out, in line 26, the words “handicapped individual” and inserting in place  
46 thereof the following words:- a person with a disability.

47 SECTION 16. Section 81 of said chapter 6, as so appearing, is hereby amended by  
48 striking out, in lines 18, 23, 25 and 26, the words “handicapped individuals” and inserting in  
49 place thereof the following words:- a person with a disability.

50 SECTION 17. Section 84 of said chapter 6, as so appearing, is hereby amended by  
51 striking out, in lines 22 to 23, inclusive, the words “handicapped person” and inserting in place  
52 thereof the following words:- person with a disability.

53 SECTION 18. Section 143 of said chapter 6, as so appearing, is hereby amended by  
54 striking out, in line 11, the words “handicapped persons” and inserting in place thereof the  
55 following words:- a person with a disability.

56 SECTION 19. Section 191 of said chapter 6, as so appearing, is hereby amended by  
57 striking out, in lines 5 and 16 all the words following the word:- conditions.

58 SECTION 20. Section 58 of chapter 7 of the General Laws, as so appearing, is hereby  
59 amended in the definition of “Minority business enterprise,” by inserting after the word, “racial”,  
60 in line 13, the following word:- disability .

61 SECTION 21. Section 27 of chapter 7C of the General Laws, as so appearing, is hereby  
62 amended by striking out, in line 12, the word “handicapped” and inserting in place thereof the  
63 word:- disability.

64 SECTION 22. Section 9 of chapter 8 of the General Laws, as so appearing, is hereby  
65 amended by striking out, in line 27, the word “handicapped” and inserting in place thereof the  
66 following words:- disabled.

67 SECTION 23. Section 38 of chapter 10 of the General Laws, as so appearing, is hereby  
68 amended by striking out, in lines 128 and 129, the words “handicapped person” and inserting in  
69 place thereof the following words:- person with a disability.

70 SECTION 24. Section 15B of chapter 15 of the General Laws, as so appearing, is hereby  
71 amended by striking out, in line 4, the words “visually-handicapped children” and inserting in  
72 place thereof the following words:- children with visual impairments .

73 SECTION 25. Section 3 of chapter 15D of the General Laws, as so appearing, is hereby  
74 amended by inserting after the word, “regions”, in line 39, the following words:- special needs.

75 SECTION 26. Said section 3 of said chapter 15D, as so appearing, is hereby further  
76 amended by inserting after the word “ethnic”, in line 39, the following word:- , disability.

77 SECTION 27. Clause (9) of section 5 of chapter 15D of the General Laws, as so  
78 appearing, is hereby amended by striking out, in line 52, the words “and cultural” and inserting  
79 in place thereof the following words:- , cultural and disability.

80 SECTION 28. Section 2 of chapter 18 of the General Laws, as so appearing, is hereby  
81 amended by striking out, in line 78, the word “handicapped” and inserting in place thereof the  
82 following words:- people with disabilities.

83 SECTION 29. Section 5 of said chapter 18, as so appearing, is hereby amended by  
84 striking out, in line 16, the words “handicapped resident” and inserting in place thereof the  
85 following words:- person with a disability who is a resident.

86 SECTION 30. Section 4 of chapter 19A of the General Laws, as so appearing, is hereby  
87 amended by striking out, in lines 7 and 8, the words “the adult handicapped” and inserting in  
88 place thereof the following words:- people with disabilities.

89 SECTION 31. Section 16 of chapter 19D of the General Laws, as so appearing, is hereby  
90 amended by striking out, in line 4, the word “handicapped”.

91 SECTION 32. Section 13A of chapter 22 of the General Laws, as so appearing, is hereby  
92 amended by striking out, in lines 10, 38, 44, 45, 46 and 47, inclusive, 74, 95, 101, 108, 116, 164,  
93 166, 173, 185, and 188, in each instance, the word “handicapped” and inserting in place thereof  
94 the following word:- “disabled”.

95 SECTION 33. Section 3 of chapter 23B of the General Laws, as so appearing, is hereby  
96 amended by striking out, in line 47, the words “the handicapped” and inserting in place thereof  
97 the following words: people with disabilities.

98 SECTION 34. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby  
99 amended by striking out, in line 12, the word “handicap” and inserting in place thereof the  
100 following word:- “disability”.

101 SECTION 35. Section 6 of chapter 23H of the General Laws, as so appearing, is hereby  
102 amended by striking out, in line XX, the word “handicapped persons” and inserting in place  
103 thereof the following words:- people with disabilities.

104 SECTION 36. Section 1 of chapter 31 of the General Laws, as so appearing, is hereby  
105 amended by striking out, in lines 18 and 74, in each instance, the word “handicap” and inserting  
106 in place thereof the following word:- disability.

107 SECTION 37. Section 5 of said chapter 31, as so appearing, is hereby amended by  
108 striking out, in lines 27 and 30, in each instance, the word “handicap” and inserting in place  
109 thereof the following word:- disabled.

110 SECTION 38. Section 16 of said chapter 31, as so appearing, is hereby amended by  
111 striking out, in line 9, the words “handicapped person” and inserting in place thereof the  
112 following words:- person with a disability.

113 SECTION 39. Said section 16 of said chapter 31, as so appearing is hereby further  
114 amended by striking out the fourth sentence and inserting in place thereof the following  
115 sentence:- Upon the application of a person with a disability to take an examination for any  
116 position, the administrator, upon written request of such person, shall make reasonable  
117 accommodations as will enable such person with a disability to take the examination.

118 SECTION 40. Section 47A of said chapter 31, as so appearing, is hereby amended by  
119 striking out, in line 46, the word “handicapped” and inserting in place thereof the following  
120 word:- disabled.

121 SECTION 41. Section 63 of said chapter 31, as so appearing, is hereby amended by  
122 striking out, in line 24, the word “handicapping” and inserting in place thereof the following  
123 word:- disabling.

124 SECTION 42. Section 1 of chapter 31A of the General Laws, as so appearing, is hereby  
125 amended by striking out, in line 22, the word “handicap” and inserting in place thereof the  
126 following word:- disability.

127 SECTION 43. Section 23 of chapter 32 of the General Laws, as so appearing is hereby  
128 amended by striking out, in line 400, the word “handicap” and inserting in place thereof the  
129 following word:- disability.



130 SECTION 44. Section 2 of chapter 32A of the General Laws, as so appearing, is hereby  
131 amended by striking out in line 65, the word “handicapped”.

132 SECTION 45. Section 14B of chapter 34 of the General Laws, as so appearing, is hereby  
133 amended by striking out, in line 3, the words “handicapped person” and inserting in place thereof  
134 the following words:- person with a disability.

135 SECTION 46. Said section 14B of said chapter 34, as so appearing, is hereby further  
136 amended, by striking out, in line 4, the words “handicapped persons” and inserting in place  
137 thereof the following words:- people with disabilities.

138 SECTION 47. Said section 14B of said chapter 34, as so appearing, is hereby further  
139 amended, by striking out, in line 8, the words “the handicapped” and inserting in place thereof  
140 the following words:- people with disabilities.

141 SECTION 48. Paragraph (23) of section 21 of chapter 40 of the General Laws, as so  
142 appearing, is hereby amended by striking out, in lines 131, 133, and 136, in each instance, the  
143 word “handicapped” and inserting in place thereof the word:- disabled .

144 SECTION 49. Clause (a) of paragraph (23) of section 21 of said chapter 40, as so  
145 appearing, is hereby amended by striking out, in lines 145, 147 and 150, in each instance, the  
146 word “handicapped” and inserting in place thereof the following word:- disabled .

147 SECTION 50. Clause (b) of paragraph (23) of section 21 of said chapter 40, as so  
148 appearing, is hereby amended by striking out, in line 168, the word “Handicapped” and inserting  
149 in place thereof the following word:- Accessible.

150 SECTION 51. Said section 21 of said chapter 40, as so appearing is hereby further  
151 amended by striking out, in line 172, the words “handicapped person” and inserting in place  
152 thereof the following words: person with a disability.

153 SECTION 52. Said section 21 of said chapter 40, as so appearing, is hereby further  
154 amended by striking out, in line 188, the word “handicapped person” and inserting in place  
155 thereof the following words:- person with a disability.

156 SECTION 53. Section 1E of chapter 69 of the General Laws, as so appearing, is hereby  
157 amended by striking out, in lines 28 and 29, inclusive, the words “gender, cultural, ethnic or  
158 racial stereotypes” and inserting in place thereof the following words: stereotypes based on  
159 gender, culture, ethnicity, disability and age.

160 SECTION 54. The second paragraph of said section 1E of said chapter 69, as so  
161 appearing, is hereby further amended, by striking out the second sentence and inserting in place  
162 thereof the following sentence:- The frameworks shall reflect sensitivity to the variety of  
163 learning styles and diverse methods of learning.

164 SECTION 55. Clause (K) of section 87AAA of chapter 112 of the General Laws, as so  
165 appearing, is hereby amended by inserting after the word “origin”, in line 29, the following  
166 words:- age, sexual orientation, gender identity, or persons with disabilities.

167 SECTION 56. Section 1 of chapter 121B, of the General Laws, as so appearing, is hereby  
168 amended by striking out the definition for “Handicapped persons of low income”, and inserting  
169 in place thereof the following definition:-

170 “Disabled persons with low income”, persons whose annual net income is less than the  
171 amount necessary to enable them to maintain decent, safe and sanitary housing, as defined by 24  
172 CFR 9.103.

173 SECTION 57. Section 32 of said chapter 121B, as so appearing, is hereby amended by  
174 striking out, in line 110, the words “or physical handicap”, and inserting in place thereof the  
175 following words:- disability, sexual orientation or gender identity.

176 SECTION 58. Said section 32 of said chapter 121B, as so appearing, is hereby further  
177 amended, by inserting after the word “sanitary”, in line 135, the following words:- and  
178 architectural access.

179 SECTION 59. The title of chapter 151B of the General Laws, as so appearing, is hereby  
180 amended by striking out the words “OR SEX” and inserting in place thereof the following  
181 words:- , SEX OR DISABILITY.

182 SECTION 60. Section 1 of chapter 151B of the General Laws, as so appearing, is hereby  
183 amended by striking out, in paragraph 16, the definition of “qualified handicapped person” and  
184 inserting in its place the following definition:-

185 The term “qualified person with a disability” means a person with a disability who is  
186 capable of performing the essential functions of a particular job with or without reasonable  
187 accommodations.

188 SECTION 61. Said section 1 of said chapter 151B, as so appearing, is hereby amended  
189 by striking out, in paragraph 17, the definition for “handicap” and inserting in place thereof the  
190 following definition:-

191           The term "disability" means a physical or mental impairment that substantially limits 1 or  
192 more major life activities without regard to the ameliorative effects of mitigating measures which  
193 do not include ordinary eyeglasses or contact lenses. "Handicap" shall mean the same as  
194 "disability."

195           SECTION 62. Said section 1 of said chapter 151B, as so appearing, is hereby amended  
196 by striking out, in paragraph 19, the definition for "handicapped person" and inserting in place  
197 thereof the following definition:-

198           The term "person with a disability" means a person who has a physical or mental  
199 impairment that substantially limits 1 or more major life activities without regard to the  
200 ameliorative effects of mitigating measures which do not include ordinary eyeglasses or contact  
201 lenses , a record of such impairment, or is regarded as having such impairment.

202           SECTION 63. Said section 1 of said chapter 151B, as so appearing, is hereby amended  
203 by adding after the definition of "genetic test", in paragraph 23, the following definition:-

204           24. The term "accessible dwelling unit", means an adaptable or accessible unit that is on  
205 an accessible route and otherwise in compliance with the standards set forth in 521 CMR 1.00  
206 through 47.00, inclusive, and all other applicable rules and regulations.

207

208           SECTION 64. Section 3 of said chapter 151B, as so appearing, is hereby amended by  
209 striking out the word "handicap", in line 21, and inserting in place thereof the following word:-  
210 disability.

211 SECTION 65. Said section 3 of said chapter 151B, as so appearing, is hereby further  
212 amended by striking out, in line 22, the words “handicapped person” and inserting in place  
213 thereof the following words:- person with a disability.

214 SECTION 66. Said section 3 of said chapter 151, as so appearing, is hereby further  
215 amended by striking out, in line 54, the words “handicapped persons” and inserting in place  
216 thereof the following words:- persons with disabilities.

217 SECTION 67. Said section 3 of said chapter 151, as so appearing, is hereby further  
218 amended by inserting after the word “ancestry”, in line 63, the following words:- or disability.

219 SECTION 68. Said section 3 of said chapter 151, as so appearing, is hereby further  
220 amended by inserting after the word “level”, in line 82, the following words:- or disability.

221 SECTION 69. Section 4 of said chapter 151B, as so appearing, is hereby amended by  
222 striking out in lines 85 and 89, in each instance, the words “the handicap of a qualified  
223 handicapped person” and inserting in place thereof the following words:- disability of a qualified  
224 disabled person.

225 SECTION 70. Said section 4 of said chapter 151B, as so appearing, is hereby amended  
226 by striking out, in lines 106 and 139, the word “handicap” and inserting in place thereof the  
227 following word:- disability.

228 SECTION 71. Said section 4 of said chapter 151B, as so appearing, is hereby further  
229 amended by striking out, in lines 167 to 168, lines 173 to 174, and in lines 184 to 185, inclusive,  
230 the words “blind, or hearing impaired or has any other handicap” and inserting in their place the  
231 following words:- a person with a disability.

232 SECTION 72. Said section 4 of said chapter 151B, as so appearing, is hereby further  
233 amended by striking out, in lines 176 to 177, 231 to 232, 239 to 240, and in lines 248 to 250,  
234 inclusive, the words “possesses a trained dog guide as a consequence of blindness or hearing  
235 impairment” and inserting in place thereof the following words:- utilizes a service animal as a  
236 consequence of a disability.

237 SECTION 73. Said section 4 of said chapter 151B, as so appearing, is hereby further  
238 amended by striking out in lines 230 to 231, inclusive, line 238 and 247 to 248, inclusive, the  
239 words “blindness, or hearing impairment or other handicap” and inserting in place thereof the  
240 following words:- or because such person is a person with a disability.

241

242 SECTION 74. Subsection 7A of said section 4 of said chapter 151B, as so appearing, is  
243 hereby amended by striking out, in line 267, the word “handicap” and inserting in place thereof  
244 the following word:- disability.

245 SECTION 75. Said subsection 7A of said chapter 151B, as so appearing, is hereby  
246 further amended by striking out, in line 268 to 269, inclusive, the words “handicapped person”  
247 and inserting in place thereof the following words:- person with a disability.

248 SECTION 76. Said subsection 7A of said chapter 151B, as so appearing, is hereby  
249 further amended by inserting after the word “enjoyment”, in line 271, the following words:- and  
250 equal use.

251 SECTION 77. Said subsection 7A of said chapter 151B, as so appearing, is hereby  
252 further amended by striking out, in line 279, the words “handicapped person” and inserting in  
253 place thereof the following words:- tenant.

254 SECTION 78. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,  
255 is hereby further amended by striking out, in lines 286 to 287, inclusive, the words “handicapped  
256 person equal opportunity to use and enjoy a dwelling” and inserting in place thereof the  
257 following words:- person with a disability equal opportunity to use all elements of a dwelling  
258 including common areas.

259 SECTION 79. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,  
260 is hereby amended by inserting after the word “for”, in line 289, the following words:- an  
261 accessible dwelling unit, including through.

262 SECTION 80. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,  
263 is hereby further amended by inserting after the word “cabinet”, in line 294, the following  
264 words:- ensuring the entrance is on an accessible route.

265 SECTION 81. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,  
266 is hereby further amended by inserting after the word “lift”, in line 299, the following words:- ,  
267 unless the request for modifications is in connection with a building that has 3 or more units and  
268 was constructed for first occupancy after March 13, 1991.

269 SECTION 82. The third paragraph of said subsection 7A of said section 4 of said chapter  
270 151B, as so appearing, is hereby further amended by adding the following 2 sentences:- The  
271 owner shall bear the burden of proving undue hardship. Notwithstanding any other provisions of  
272 this subsection, an accommodation or modification which is paid for by the owner or other

273 person having the right of ownership is considered reasonable if it is requested by a person with  
274 a disability to afford such person full enjoyment and equal use of the premises; and if such  
275 architectural or communications features were otherwise mandated by Federal and State  
276 architectural accessibility code at the time of construction or rehabilitation.

277 SECTION 83. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,  
278 is hereby further amended by striking out, in line 318, the words “a wheelchair accessible unit”  
279 and inserting in place thereof the following words:- an accessible dwelling unit.

280 SECTION 84. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,  
281 is hereby further amended by striking out, in line 332, the words “handicap-accessible” and  
282 inserting in place thereof the following words:- accessible or adaptable.

283 SECTION 85. Subsection 7B of said section 4 of said chapter 151B, as so appearing, is  
284 hereby amended by striking out, in line 343, the word “handicap”, and inserting in place thereof  
285 the following word:- disability.

286 SECTION 86. Subsection 8 of said section 4 of said chapter 151B, as so appearing, is  
287 hereby amended by striking out, in lines 353, 358, and 364, the word “handicap” and inserting in  
288 place thereof the following word:- disability.

289 SECTION 87. Said section 4 of said chapter 151B, as so appearing, is hereby amended  
290 by striking out subsection 9A and inserting in place thereof the following subsection:-

291 9A. For an employer or an employer’s agent to refuse, unless based upon a bonafide  
292 occupational qualification, to hire or employ or to bar or discharge from employment any person  
293 by reason of his or her failure to furnish information regarding his or her admission, on 1 or more



294 occasions, voluntarily or involuntarily, to any public or private facility for the care and treatment  
295 of mentally ill persons, provided that such person can prove that he is mentally competent to  
296 perform the job or the job for which he is applying. No application for employment shall contain  
297 any questions or requests for information regarding the admission of an applicant, on 1 or more  
298 occasions, voluntarily or involuntarily, to any public or private facility for the care and treatment  
299 of mentally ill persons.

300 SECTION 88. Clause (b) of subsection 13 of said section 4 of said chapter 151B, as so  
301 appearing, is hereby amended by striking out, in line 498, the words “handicapped person” and  
302 inserting in place thereof the following words:- person with a disability.

303 SECTION 89. Said section 4 of said chapter 151B, as so appearing is hereby amended  
304 by striking out subsection 16 and inserting in place thereof the following subsection:

305 16. For any employer, personally or through an agent, to dismiss from employment or  
306 refuse to hire, rehire or advance in employment or otherwise discriminate against, because of a  
307 disability or record or perception of a disability, any person alleging to be a person with a  
308 disability, capable of performing the essential functions of the position involved, with or without  
309 reasonable accommodation, unless the employer can demonstrate that the accommodation  
310 required for the person to perform the essential functions of the position would impose an undue  
311 hardship to the employer’s business.

312 For purposes of this subsection, the following terms, unless the context clearly requires  
313 otherwise, shall have the following meanings:-

314 “Employer”, shall include an agency which employs individuals directly for the purpose  
315 of furnishing part-time or temporary help to others.

316 “Illegal use of drugs ”, shall include the use of drugs, the possession or distribution of  
317 which is unlawful under the Controlled Substances Act, 21 U.S.C. 801; provided, however, that  
318 such term shall not include the use of a drug taken under supervision by a licensed health care  
319 professional or the medical use of marijuana taken pursuant to chapter 369 of the acts of 2012.

320 “Reasonable accommodation”, may include:- (i) making existing facilities used by  
321 employees readily accessible to and useable by persons with disabilities; (ii) job restructuring,  
322 part-time or modified work schedules; (iii) reassignment to a vacant position; (iv) acquisition or  
323 modification of equipment or devices; (v) appropriate adjustment or modifications of  
324 examinations, training materials or policies, (vi) the provision of auxiliary aides or services; and  
325 (vii) other similar accommodations.

326 In determining whether an accommodation would impose an undue hardship on the  
327 conduct of the employer’s business, factors to be considered shall include:-

328 (1) the overall size of the employer’s business with respect to the number of  
329 employees, number and type of facilities, and size of budget or available assets;

330 (2) the type of the employer’s operation, including the composition and structure of  
331 the employer’s workforce;

332 (3) the nature and cost of the accommodation needed; and

333 (4) the overall financial resources of the facility or facilities involved in the provision  
334 of the accommodation, the effect on such resources, or other impact to operations.

335 Physical or mental job qualification requirements with respect to hiring, job application  
336 procedures, promotion, demotion or dismissal from employment or any other change in

337 employment status or responsibilities shall be functionally related to the specific job or jobs for  
338 which the person is being considered and shall be consistent with the safe and lawful  
339 performance of the job.

340 A qualified disabled person shall not include any employee or applicant who is currently  
341 engaging in the illegal use of drugs. An employer may take adverse employment action on the  
342 basis of such use; provided, however, that nothing in this subsection shall be construed to  
343 exclude as a qualified disabled person a person who has successfully completed a supervised  
344 drug rehabilitation program and is no longer engaging in the illegal use of drugs, or who has  
345 otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs; or  
346 who is currently participating in a supervised rehabilitation program and is no longer engaging in  
347 the illegal use of drugs; or who is erroneously regarded as engaging in such use.

348 An employer may prohibit the illegal use of drugs and the use of alcohol at the workplace  
349 by all employees and may also require that employees shall not be under the influence of alcohol  
350 or illegal drugs at the workplace. An employer may hold an employee who engages in the illegal  
351 use of drugs or who is an alcoholic to the same qualification, job performance and behavior  
352 standards that the employer holds other employees, even if any unsatisfactory performance or  
353 behavior is related to drug use or alcoholism.

354 An employer may not make preemployment inquiry of an applicant as to whether the  
355 applicant is a person with a disability or as to the nature or severity of the disability, except that  
356 an employer may condition an offer of employment on the results of a medical examination  
357 conducted solely for the purpose of determining whether the employee with reasonable  
358 accommodation, is capable of performing the essential functions of the job, and an employer

359 may invite applicants to voluntarily disclose their disability for purposes of assisting the  
360 employer in its affirmative action efforts.

361 An employer shall not utilize standards, criteria or methods of administration that have  
362 the effect of discrimination on the basis of disability or that perpetuate the discrimination of  
363 others against qualified disabled persons.

364 An employer shall not discriminate against an employee or applicant because of the  
365 known disability of a person with whom the applicant or employee is known to have a  
366 relationship or association.

367 SECTION 90. Said chapter 272, as so appearing, is hereby amended by striking out  
368 section 98A and inserting in place thereof the following section:-

369 Section 90A. Notwithstanding any other provision of law, a person with a disability who  
370 is accompanied by his or her service animal, shall be entitled to any and all accommodations,  
371 advantages, facilities and privileges of all public conveyances, public amusements and places of  
372 public accommodation within the commonwealth to which persons not accompanied by service  
373 animals are entitled, subject only to the conditions and limitations applicable to all persons not  
374 accompanied by service animals. No person with a disability who is accompanied by a service  
375 animal when taking public transportation shall be required to pay any additional charge, fee or  
376 fare for or on account of his or her service animal. . Whoever deprives a person with a disability  
377 of any right conferred by this section shall be punished by a fine of not more than \$300 and shall  
378 be liable to any person aggrieved thereby for such damages as are set forth in section 5 of chapter  
379 151B; provided, however, that such civic forfeiture shall be of an amount not less than \$100.

380 SECTION 91. Section 98B of said chapter 272, as so appearing, is hereby amended by  
381 inserting after the word “religion”, in line 3, the following word:- disability.

382 SECTION 92. Section 66 of chapter 3 of the General Laws, as appearing in the 2012  
383 Official Edition , is hereby amended by inserting after the word, “age”, in line 4, the following  
384 word:- , disability.

385 SECTION 93. Section 67 of said chapter 3, as so appearing, is hereby further amended by  
386 inserting after the word “age”, in line 19, the following word:- , disability.

387 SECTION 94. Said section 1 of said chapter 151B, so appearing, is further amended by  
388 adding a new definition, after line 35, as follows:- the term service animals shall mean dogs that  
389 are individually trained to do work or perform tasks for people with disabilities.