

HOUSE No. 1370

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>James Arciero</i>	<i>2nd Middlesex</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>

<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Brian R. Mannal</i>	<i>2nd Barnstable</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

HOUSE No. 1370

By Mr. Heroux of Attleboro, a petition (accompanied by bill, House, No. 1370) of Paul R. Heroux and others relative to prohibiting discrimination against adults with disabilities in family and juvenile court proceedings. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1379 OF 2013-2014.]

The Commonwealth of Massachusetts

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

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

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29

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

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

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

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

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

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

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

57

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

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

62

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

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

69

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

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

78

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

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

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

94

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

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

102

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

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

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

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

113 “Supportive parenting services”, services that help parents with a disability compensate
114 for those aspects of the disability that affect their ability to care for their children and that will

115 enable them to discharge their parental responsibilities. The term includes, but is not limited to,
116 specialized or adapted training, evaluations, and assistance with effective use of adaptive
117 equipment, as well as accommodations that allow a parent with a disability to benefit from other
118 services, such as braille text or sign language interpreters.

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

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

130

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

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

135

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

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

142

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

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

151

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

154 5-204 the following section:-

155 Section 5-204A. Nothing in this chapter shall allow a parent’s disability to be considered
156 a negative factor in determining whether to appointment a temporary or permanent guardian for a

157 minor child, absent a specific showing by a clear and convincing evidence made by the party
158 raising the allegation, that there is a nexus between the parent's disability and alleged harm to the
159 child, and that this alleged harm cannot be prevented or alleviated by accommodations for the
160 disability, including adaptive parenting equipment or supportive parenting services.

161 If the court considers a parent's disability as a negative factor in a determination whether
162 to appoint a temporary or permanent guardian for a minor child, the court shall make specific
163 written findings as to the nexus between the parent's disability and harm to the child, the impact
164 this has on current parental fitness, and whether or not adaptive parenting equipment or
165 supportive parenting services can alleviate said harm or render the parent fit.