

HOUSE No. 78

The Commonwealth of Massachusetts

PRESENTED BY:

Mark J. Cusack

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 to support the transition to adult services for persons with disabilities.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---------------------------------|-----------------------------|------------------|
| <i>Mark J. Cusack</i> | <i>5th Norfolk</i> | <i>1/15/2015</i> |
| <i>Louis L. Kafka</i> | <i>8th Norfolk</i> | |
| <i>Kimberly N. Ferguson</i> | <i>1st Worcester</i> | |
| <i>Joseph W. McGonagle, Jr.</i> | <i>28th Middlesex</i> | |
| <i>James J. Dwyer</i> | <i>30th Middlesex</i> | |
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | |
| <i>Carolyn C. Dykema</i> | <i>8th Middlesex</i> | |
| <i>Jeffrey N. Roy</i> | <i>10th Norfolk</i> | |
| <i>Alice Hanlon Peisch</i> | <i>14th Norfolk</i> | |
| <i>Tom Sannicandro</i> | <i>7th Middlesex</i> | |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | |
| <i>Edward F. Coppinger</i> | <i>10th Suffolk</i> | |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | |
| <i>Paul McMurtry</i> | <i>11th Norfolk</i> | |
| <i>Gailanne M. Cariddi</i> | <i>1st Berkshire</i> | |
| <i>Kenneth I. Gordon</i> | <i>21st Middlesex</i> | |
| <i>James Arciero</i> | <i>2nd Middlesex</i> | |
| <i>Frank I. Smizik</i> | <i>15th Norfolk</i> | |

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| <i>Claire D. Cronin</i> | <i>11th Plymouth</i> | |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | |
| <i>Sarah K. Peake</i> | <i>4th Barnstable</i> | |
| <i>Paul Brodeur</i> | <i>32nd Middlesex</i> | |
| <i>Todd M. Smola</i> | <i>1st Hampden</i> | |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> | |
| <i>Anne M. Gobi</i> | <i>Worcester, Hampden, Hampshire and Middlesex</i> | |
| <i>Kate Hogan</i> | <i>3rd Middlesex</i> | |
| <i>Daniel Cullinane</i> | <i>12th Suffolk</i> | |
| <i>Michael D. Brady</i> | <i>Second Plymouth and Bristol</i> | |
| <i>Joseph D. McKenna</i> | <i>18th Worcester</i> | |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | |
| <i>James M. Murphy</i> | <i>4th Norfolk</i> | |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> | |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> | |

HOUSE No. 78

By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 78) of Mark J. Cusack and others for legislation to support the transition to adult services for persons with disabilities. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 87 OF 2013-2014.]

The Commonwealth of Massachusetts

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

An Act to support the transition to adult services for persons with disabilities.

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: The definition of “Disabled person” in Section 12A of chapter 71B as
2 appearing in the 2008 Official Edition, lines 3 through 9, is hereby amended by striking this
3 paragraph and inserting in place thereof the following paragraph:

4 “Person with a disability”, a person with a physical or mental impairment that results in a
5 substantial impediment to employment, or any individual listed on the registry of the
6 Massachusetts Commission for the Blind.

7 Said Section 12A of chapter 71B as appearing in the 2008 Official Edition is further
8 amended by inserting the following definition:

9 "Substantial impediment to employment" refers to a physical or mental impairment
10 which, in light of attendant medical, psychological, vocational, educational and other related
11 factors impedes an individual's occupational performance by preventing his/her obtaining,
12 retaining, or preparing for employment consistent with his/her capacities and abilities.

13 Said Section 12A of chapter 71B as appearing in the 2008 Official Edition is further
14 amended by striking the definition of "substantial gainful activity."

15 Said Section 12A is further amended by striking "disabled person" on line 14 within the
16 definition of "Habilitative services" and inserting in place thereof the words –

17 person with a disability

18 Said Section 12A is further amended by striking "disabled person" on line 32 within the
19 definition of "transition plan" and inserting in place thereof the words –

20 person with a disability

21 Section 12B of chapter 71B as appearing in the 2008 Official Edition is amended by
22 striking "disabled persons" on line 26 and inserting in place thereof the words –

23 persons with disabilities

24 Section 12C of chapter 71B as appearing in the 2008 Official Edition is amended by
25 striking "disabled person" on line 1 and inserting in place thereof the words –

26 person with disability

27 Said Section 12C is amended by striking "disabled person" on line 16 and inserting in
28 place thereof the words –

29 person with disability

30 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 29 and
31 inserting in place thereof the words –

32 person with disability

33 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 41 and
34 inserting in place thereof the words –

35 person with disability

36 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 52 and
37 inserting in place thereof the words –

38 person with disability

39 Said Section 12C of chapter 71B as is amended by striking “disabled person” on line 60-
40 61 and inserting in place thereof the words –

41 person with disability

42 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 69 and
43 inserting in place thereof the words –

44 person with disability

45 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 87 and
46 inserting in place thereof the words –

47 person with a disability

48 SECTION 2: The definition of “Habilitative services” in Section 12A of chapter 71B as
49 appearing in the 2008 Official Edition is hereby amended inserting a second sentence as follows:

50 Habilitative services shall also include, when necessary, instruction in independent living
51 skills and functional life skills, independent or supportive housing, preparation for postsecondary
52 education, preparation for individualized and integrated competitive or supported employment,
53 and training in self-advocacy.

54 SECTION 3: Section 12C of chapter 71B, second paragraph, as appearing in the 2008
55 Official Edition is hereby amended by adding a third sentence which follows:

56 When such application is required, the bureau, or such other agency as may be providing
57 a transition plan on its behalf, shall also provide training, assistance or referrals to students,
58 parents and school regarding work incentive programs administered by the Social Security
59 Administration for persons receiving disability benefits.

60 SECTION 4: Section 2 of chapter 71B as appearing in the 2008 Official Edition is hereby
61 amended by adding the following paragraphs:

62 Said transition services to be provided by the school shall be closely coordinated with
63 habilitative services provided by the bureau of transition planning of the executive office of
64 health and human services, pursuant to section 12C of chapter 71B. To facilitate this
65 coordination, with the consent of the parents or a child who has reached the age of majority, the
66 child’s school committee, with no less than 21 calendar days’ notice, shall invite to the child’s
67 Individualized Education Plan (IEP) meeting a representative of the bureau of transition planning
68 or any participating adult service agency identified by the bureau that is known by the school to
69 be responsible for services pursuant to 20 U.S.C. §1414(d)(1)(D) or section 12C of chapter 71B.

70 In the event that there is no participating adult service agency known to be responsible for
71 services, the special education director or administrator employed by the school committee, or
72 his or her designee, shall contact the bureau of transition planning before sending this invitation.
73 The bureau shall respond, to the extent practicable, by designating and identifying an adult
74 services agency, or shall attend the IEP meeting on behalf of the executive office of health and
75 human services. Such representative shall attend at least one such IEP meeting for purposes of
76 facilitating transition planning, no later than two years before either the date the student is
77 anticipated to graduate from high school, or turn age twenty-two, whichever date is earlier. By
78 agreement of all participants, an Individualized Transition Plan (ITP) meeting to discuss services
79 to be provided by any designated adult services agency may be held concurrently with
80 Individualized Education Plan (IEP) meeting. The identification of services in an Individualized
81 Transition Plan (ITP), or the provision of other services provided by the bureau of transition
82 planning or an agency acting on its behalf, shall not be deemed to alter any existing obligation of
83 the local educational agency under state or federal law. If a participating agency, other than the
84 local educational agency, fails to provide the transition services described in the IEP, the local
85 educational agency shall reconvene the IEP Team to identify alternative strategies to meet the
86 transition objectives for the child set out in the IEP. When a child is graduating or attaining the
87 age of 22, whichever occurs first, the school shall provide to the student and to the participating
88 agency a summary of the child's academic achievement and functional performance, which shall
89 include recommendations on how to assist the child in meeting the child's postsecondary goals.

90 SECTION 5: Subject to appropriation, notwithstanding other provisions of the General
91 Laws, the Department of Developmental Services shall develop and administer a discretionary
92 demonstration program to provide, as part of a pilot project, services which are parallel in scope

93 to programs of “community intellectual disability services” pursuant to Sections 12 and 13 of the
94 Chapter 19B of the General Laws. This program shall be limited to persons turning 22 (i.e., ages
95 20 to 24) with developmental disabilities, including persons with developmental disabilities who
96 are not eligible for any adult services pursuant to M.G.L. c. 123B and regulations promulgated
97 thereunder”. The pilot project shall be administered consistent with appropriations and shall be
98 limited to individuals who meet the developmental disabilities definition under the
99 Developmental Disabilities Assistance and Bill of Rights Amendments Act of 2000, 42 U.S.C..
100 15002(8)). The goals of the grant program shall be to meet the transitional needs of youth with
101 developmental disabilities by expanding services and supports to those persons “without adult
102 service agency ties” in the chapter 688 transition process, other than the Massachusetts
103 Rehabilitation Commission, and to assist the Department in providing cost estimates to the
104 Legislature pursuant to Section 6.

105 SECTION 6: The secretary of executive office of health and human services shall file a
106 report to the Joint Committee on Children, Families and Persons with Disabilities, by January 1,
107 2016 and on an annual basis thereafter, describing information about the total number of
108 individuals referred to the bureau of transition planning of the executive office of health and
109 human services for habilitative services from the bureau or any agency acting on its behalf, and
110 the total number of individuals for whom such services not made available. For such persons for
111 whom services were not made available, and who were determined to be persons with
112 disabilities, said report shall include the proportion of individuals in need of extended case
113 management services related to transition planning, the proportion of types of habilitative
114 services needed by these individuals, and the approximate cost of such type of services which
115 were not provided.

116 SECTION 7: The executive office of health and human services shall file a report to the
117 Joint Committee on Children, Families and Persons with Disabilities, by January 1, 2016 on
118 proposed federal Medicaid revenue strategies to address adult service needs of transitioning
119 students with disabilities who are not eligible for programs at state disability agencies. The report
120 shall evaluate the use of the home and community based services (HCBS) state plan option,
121 Community Choice state option, Medicaid rehabilitation services option, HCBS waivers and
122 demonstration waivers. The report shall consider including ranges and methods of funding
123 needed for individuals with varying support needs, e.g., those who require employment supports
124 only, those who require social supports only, those who require community living/safety
125 supports, those who require nursing or medical supports and/or those who require some
126 combination.