

SENATE No. 2167

Senate, March 3, 2016 -- Text of the Senate Bill eliminating archaic language pertaining to individuals with disabilities in the Commonwealth of Massachusetts (Senate, No. 2167) (being the text of Senate, No. 2140, printed as amended)

The Commonwealth of Massachusetts

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

An Act eliminating archaic language pertaining to individuals with disabilities 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. This act may be referred to as Katie’s Law.

2 SECTION 2. Section 172C of chapter 6 of the General Laws, as appearing in the 2014
3 Official Edition, is hereby amended by striking out, in line 5, the words “who is mentally
4 retarded” and inserting in place thereof the following words:- with an intellectual disability.

5 SECTION 3. Section 178C of said chapter 6, as so appearing, is hereby amended by
6 striking out, in line 60 and lines 137 to 138, the words “mentally retarded person” and inserting
7 in place thereof, in each instance, the following words:- person with an intellectual disability.

8 SECTION 4. Section 178K of said chapter 6, as so appearing, is hereby amended by
9 striking out, in line 235, the words “the mentally retarded” and inserting in place thereof the
10 following words:- persons with an intellectual disability.

11 SECTION 5. Said section 178K of said chapter 6 is hereby further amended by striking
12 out, in line 258, as so appearing, the words “mentally retarded person” and inserting in place the
13 following words:- person with an intellectual disability.

14 SECTION 6. Section 22N of chapter 7 of the General Laws, as so appearing, is hereby
15 amended by striking out, in lines 13 to 14, the words “mental retardation” and inserting in place
16 thereof the following words:- intellectual disability.

17 SECTION 7. Section 38 of chapter 10 of the General Laws, as so appearing, is hereby
18 amended by striking out, in line 9, the words “retarded children” and inserting in place thereof
19 the following words:- children with an intellectual disability.

20 SECTION 8. Section 21 of chapter 19 of the General Laws, as so appearing, is hereby
21 amended by striking out, in line 16, the words ‘and mentally retarded individuals’ and inserting
22 in place thereof the following words:- individuals and individuals with intellectual disabilities.

23 SECTION 9. Section 7 of chapter 19B of the General Laws, as so appearing, is hereby
24 amended by striking out, in line 2, the words “mental retardation facilities” and inserting in place
25 thereof the words:- facilities for persons with an intellectual disability.

26 SECTION 10. Section 8 of said chapter 19B, as so appearing, is hereby amended by
27 striking out, in line 3, the words “mental retardation facility of the department” and inserting in
28 place thereof the following words:- facility of the department for persons with intellectual
29 disabilities.

30 SECTION 11. Said section 8 of said chapter 19B, as so appearing, is hereby further
31 amended by striking out, in lines 6 to 7, the words “the mentally retarded” and inserting in place
32 thereof the following words:- persons with an intellectual disability.

33 SECTION 12. Section 2 of chapter 21H of the General Laws, as so appearing, is hereby
34 amended by striking out, in lines 73 to 74, the word “retarded” and inserting in place thereof the
35 following words:- persons with intellectual disabilities .

36 SECTION 13. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby
37 amended by striking out, in line 13, the word “handicap” and inserting in place thereof the
38 following words:- disability, age.

39 SECTION 14. Section 1 of chapter 31 of the General Laws, as so appearing, is hereby
40 amended by inserting after the word “impairment,” in line 85, the following sentence:-
41 “Handicap” shall have the same meaning as the term "disability".

42 SECTION 15. Section 47 of said chapter 31, as so appearing, is hereby amended by
43 striking out, in line 33, the words “mentally retarded person” and inserting in place thereof the
44 following words:- a person with intellectual disabilities.

45 SECTION 16. Clause (e) of subsection 1 of Section 1 of chapter 31A of the General
46 Laws, as so appearing, is hereby amended by striking out, in line 24, the word “handicap” and
47 inserting in place thereof the following:- disability.

48 SECTION 17. Section 2 of said chapter 31A, as so appearing, is hereby amended by
49 inserting after the definition for “Department” the following definition:-

50 "Disability", a physical or mental impairment that substantially limits one or more major
51 life activities without regard to the ameliorative effects of mitigating measures which do not
52 include ordinary eyeglasses or contact lenses.

53 SECTION 18. Said section 2 of said chapter 31A, as so appearing, is hereby further
54 amended by inserting after the definition for "Local merit appeals board" the following
55 definition:-

56 "Major life activities" shall include, but are not limited to, caring for oneself, performing
57 manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking,
58 breathing, learning, reading, concentrating, thinking, communicating, and working. This term
59 also includes the meaning of "major bodily functions," which include, but are not limited to,
60 functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological,
61 brain, respiratory, circulatory, endocrine, and reproductive functions.

62 SECTION 19. Section 23 of chapter 32 of the General Laws, as amended by section 8 of
63 chapter 86 of the acts of 2015, is hereby amended by striking out, in subsection (b) of paragraph
64 (5), the words "physical handicap" and inserting the following word:- disability.

65 SECTION 20. Section 3 of chapter 38 of the General Laws, as appearing in the 2014
66 Official Edition, is hereby amended by striking out, in line 21, the words "or mental retardation
67 institution" and inserting in place thereof the following words:- institution or any other
68 institution for a person with an intellectual disability.

69 SECTION 21. Section 3 of chapter 71B of the General Laws, as so appearing, is hereby
70 amended by striking out, in lines 175 and 217, the words "mental retardation" and inserting in
71 place thereof, in each instance, the following words:- developmental services.

72 SECTION 22. Section 4 of chapter 92B of the General Laws, as so appearing, is hereby
73 amended by striking out, in line of 28, the words “physical handicap” and inserting in place
74 thereof the following word:- disability.

75 SECTION 23. Subsection (a) of section 103 of chapter 93 of the General Laws, as so
76 appearing, is hereby amended by striking out, in line 2, the word “handicap” and inserting in
77 place thereof the following word:- disability.

78 SECTION 23A. Said section 103 of said chapter 93, as so appearing, is hereby amended
79 by striking out, in line 3, the words "with reasonable accommodation" and inserting in place
80 thereof the following words:- with or without reasonable accommodation.

81 SECTION 24. Section 40 of chapter 111 of the General Laws, as so appearing, is hereby
82 amended by striking out, in line 24, the words “mental retardation” and inserting in place thereof
83 the following words:- developmental services.

84 SECTION 25. Section 24E of said chapter 111 of the General Laws, as so appearing, is
85 hereby amended by striking out, in line 9, the word “handicap” and inserting in place thereof the
86 following word:- disability.

87 SECTION 26. Section 62J of said chapter 111, as so appearing, is hereby amended by
88 striking out, in line 14, the words “ mental retardation services” and inserting in place thereof the
89 following words:- services for persons with intellectual disabilities.

90 SECTION 27. Section 67E of said chapter 111, as so appearing, is hereby amended by
91 striking out, in lines 40 to 41, the words “mental retardation” and inserting in place thereof the
92 following words:- intellectual disability.

93 SECTION 28. Section 69E of said chapter 111, as so appearing, is hereby amended by
94 striking out, in line 9, the words “mental retardation services” and inserting in place thereof the
95 following words:- services for people with intellectual disabilities.

96 SECTION 29. Section 71 of said chapter 111, as so appearing, is hereby amended by
97 striking out, in lines 10, 24 to 25, 80, 92, 137, 183, 186 and 226, the words “the mentally
98 retarded” and inserting in place thereof, in each instance, the following words:- persons with
99 intellectual disabilities.

100 SECTION 30. Said section 71 of said chapter 111, as so appearing, is hereby further
101 amended by inserting after the word “mental”, in line 192, the word:- health.

102 SECTION 31. Section 72 of said chapter 111, as so appearing, is hereby amended by
103 striking out, in lines 3 to 4, the words “the mentally retarded” and inserting in place thereof the
104 following words:- persons with intellectual disabilities.

105 SECTION 32. Said section 72 of said chapter 111, as so appearing, is hereby amended by
106 striking out, in line 17, the words “mentally retarded and” and inserting in place thereof the
107 following words:- persons with intellectual disabilities.

108 SECTION 33. Section 72Y of said chapter 111, as so appearing, is hereby amended by
109 striking out, in lines 11 to 12, the word “retarded” and inserting in place thereof the following
110 words:- persons with intellectual disabilities.

111 SECTION 34. Section 193 of said chapter 111, as so appearing, is hereby amended by
112 striking out, in lines 12 to 13, the word “retarded” and inserting in place thereof the following
113 words:- who have an intellectual disability.

114 SECTION 35. Section 23 of chapter 119 of the General Laws, as so appearing, is hereby
115 amended by striking out, in lines 49 to 50, the words “mental retardation” and inserting in place
116 thereof the following words:- intellectual disabilities.

117 SECTION 36. Section 38A of chapter 121B of the General Laws, as so appearing, is
118 hereby amended by striking out, in line 31, the words “mental retardation” and inserting in place
119 thereof the following words:- intellectual disabilities.

120 SECTION 37. Section 1 of chapter 122 of the General Laws, as so appearing, is hereby
121 amended by striking out, in line 11, the words “mental retardation” and inserting in place thereof
122 the following words:- intellectual disabilities.

123 SECTION 38. Section 14 of said chapter 122, as so appearing, is hereby amended by
124 striking out, in lines 3 to 4, the words “mental retardation” and inserting in place thereof the
125 following words:- or intellectual disability.

126 SECTION 39. Section 1 of chapter 123A of the General Laws, as so appearing, is hereby
127 amended by striking out, in line 45, the words “a mentally retarded person” and inserting in place
128 thereof the following words:- a person with intellectual disabilities.

129 SECTION 40. Section 3 of chapter 123B of the General Laws, as so appearing, is hereby
130 amended by striking out, in line 5, the words “the mentally retarded” and inserting in place
131 thereof the following words:- persons with intellectual disabilities.

132 SECTION 40A. Said section 1 of said chapter 123B, as so appearing, is hereby further
133 amended by inserting after the word "disability", in line 57, the following words:- ; provided,

134 however, that no person shall be evaluated or denied services for an intellectual disability based
135 solely on the use of intelligence quotient testing or educational testing.

136 SECTION 40B. Said chapter 123B is hereby further amended by inserting after section 2
137 the following section:-

138 Section 2A. If the department intends to deny a person applying for services, the
139 department shall notify that applicant not less than 45 days prior to making a final determination.
140 The department shall provide a description of the reasons the department intends to deny the
141 services and shall advise the applicant of the opportunity to request that the department conduct
142 further evaluations. Further evaluations shall include, but not be limited to: (i) an additional in-
143 person interview; (ii) school or work observation conducted by the department; and (iii)
144 testimony from non-guardianship teachers or supervisors. The further evaluation shall be
145 considered before a denial of disability services is finalized. A final determination to deny
146 services shall not be based solely on intelligence quotient testing or educational testing.

147 SECTION 41. Section 133E of chapter 127 of the General Laws, as so appearing, is
148 hereby amended by striking out, in line 14, the words “a mentally retarded person” and inserting
149 in place thereof the following words:- a person with intellectual disabilities.

150 SECTION 42. Section 13 of chapter 131 of the General Laws, as so appearing, is hereby
151 amended by striking out, in lines 48 and 49, the words “the mentally retarded” and inserting in
152 place thereof the following words:-students with intellectual disabilities.”; and

153 SECTION 42A. Said section 13 of said chapter 131, as so appearing, is hereby further
154 amended by striking out, in line 50, the words “mentally retarded students” and inserting in place
155 thereof the following words:- students with intellectual disabilities.

156 SECTION 43. Section 30A of chapter 149 of the General Laws, as so appearing, is
157 hereby amended by striking out, in line 22, the words “mental retardation” and inserting in place
158 thereof the following words:- intellectual services.

159 SECTION 44. Section 28 of chapter 152 of the General Laws, as so appearing, is hereby
160 amended by striking out, in lines 13 to 14, the words “mentally retarded persons” and inserting in
161 place thereof the following words:- persons with intellectual disabilities.

162 SECTION 45. Subsection(a) of section 5 of chapter 161A of the General Laws, as so
163 appearing, is hereby amended by striking out, in line 11, the word “handicap” and inserting in
164 place thereof the following word:- disability.

165 SECTION 46. Section 25 of said chapter 161A, as so appearing, is hereby amended by
166 striking out, in lines 22 to 23, the words “handicapping condition” and inserting in place thereof
167 the following words:- disability.

168 SECTION 47. Section 120A of chapter 175 of the General Laws, as so appearing, is
169 hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place
170 thereof the following words:- intellectual disability.

171 SECTION 48. Section 17A of chapter 186 of the General Laws, as so appearing, is
172 hereby amended by striking out, in line 72, the words “mentally retarded persons” and inserting
173 in place thereof the following words:- persons with intellectual disabilities.

174 SECTION 49. Section 5-101 of chapter 190B of the General Laws, as so appearing, is
175 hereby amended by striking out paragraph (12), the words “Mentally retarded person” and
176 inserting in place thereof the following words:- Person with an intellectual disability.

177 SECTION 50. Section 5-304 of chapter 190B, as so appearing, is hereby amended by
178 striking out, in line 16, the words “be mentally retarded” and inserting in place thereof the
179 following words:- have an intellectual disability.

180 SECTION 51. Section 5-309 of said chapter 190B, as so appearing, is hereby amended
181 by striking out, in line 57, the words “mental retardation facility” and inserting in place thereof
182 the following words:- facility for persons with intellectual disabilities.

183 SECTION 52. Section 32 of chapter 209 of the General Laws, as so appearing, is hereby
184 amended by striking out, in line 6, the words “mental retardation” and inserting in place thereof
185 the following words:- intellectual disability.

186 SECTION 53. Section 85V of chapter 231 of the General Laws, as so appearing, is
187 hereby amended by striking out, in line 24, the words “mentally retarded” and inserting in place
188 thereof the following words:- persons with intellectual disabilities.

189 SECTION 54. Section 23E of chapter 233 of the General Laws, as so appearing, is
190 hereby amended by striking out, in lines 36 and 50, the words “mental retardation” and inserting
191 in place thereof, in each instance, the following words:- an intellectual disability.

192 SECTION 55. Section 5B of chapter 260 of the General Laws, as so appearing, is hereby
193 amended by striking out, in line 5, the word “handicap” and inserting in place thereof the
194 following word:- disability.

195 SECTION 56. Section 13F of chapter 265 of the General Laws, as so appearing, is hereby
196 amended by striking out, in lines 21 to 22, the words “mentally retarded person upon another

197 mentally retarded person” and inserting in place thereof the following words:- person with a
198 developmental disability upon another person with an intellectual disability.

199 SECTION 57. Section 45 of said chapter 265, as so appearing, is hereby amended by
200 striking out, in line 3, the phrase “mentally retarded person” and inserting in place thereof the
201 following:- person with an intellectual disability.

202 SECTION 58. Section 7 of chapter 268A of the General Laws, as so appearing, is hereby
203 amended by striking out, in line 66, the words “mentally retarded persons” and inserting in place
204 thereof the following words:- persons with intellectual disabilities.