

SENATE No. 2457

Senate, July 21, 2016 -- Substituted as a new text (Senator Jehlen) for the House Bill relative to individuals with intellectual or developmental disabilities and the agencies that serve them (House, No. 4532).

The Commonwealth of Massachusetts

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

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 “is mentally retarded”
4 and inserting in place thereof the following words:- has an intellectual or developmental
5 disability.

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

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

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

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

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

22 SECTION 8. Section 21 of chapter 19 of the General Laws, as so appearing, is hereby
23 amended by striking out, in line 16, the words "mentally retarded individuals with common
24 needs for care and treatment" in lines 16 to 17 and inserting in place thereof the following
25 words:- " intellectually or developmentally disabled individuals with common needs for care and
26 treatment, provided that a need for care and treatment shall not be evaluated or denied solely by
27 the use of intelligence quotient testing or educational testing".

28 SECTION 9. Section 7 of chapter 19B of the General Laws, as so appearing, is hereby
29 amended by striking out, in line 2, the words “mental retardation”.

30 SECTION 10. Section 8 of said chapter 19B, as so appearing, is hereby amended by
31 striking out, in line 3, the words “mental retardation”

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

SECTION 12. Section 2 of chapter 21H of the General Laws, as so appearing, is hereby amended by striking out, in lines 73 to 74, the word “retarded” and inserting in place thereof the following words:- intellectually or developmentally disabled.

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

SECTION 14. Section 47 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in lines 32 to 33, the words “such mentally retarded person” and inserting in place thereof the following words:- a person with an intellectual disability.

SECTION 15. Clause (e) of subsection 1 of Section 1 of chapter 31A of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the word “handicap” and inserting in place thereof the following word:- disability.

SECTION 16. Section 2 of said chapter 31A, as so appearing, is hereby amended by inserting after the definition for “Department” the following definition:-

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

SECTION 17. Said section 2 of said chapter 31A, as so appearing, is hereby further amended by inserting after the definition for “Local merit appeals board” the following definition:-

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

SECTION 18. Section 23 of chapter 32 of the General Laws, as amended by section 8 of chapter 86 of the acts of 2015, is hereby amended by striking out, in subsection (b) of paragraph (5), the words “physical handicap” and inserting in place thereof the following word:- disability.

SECTION 19. Section 3 of chapter 38 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 21, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 20. Section 3 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in lines 175 and 217, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 21. Section 4 of chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in line of 28, the words “physical handicap” and inserting in place thereof the following word:- disability.

SECTION 22. Subsection (a) of section 103 of chapter 93 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word “handicap” and inserting in place thereof the following word:- disability.

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

SECTION 24. Section 4O of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

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

SECTION 26. Section 62J of said chapter 111, as so appearing, is hereby amended by striking out, in line 14, the words “mental retardation” and inserting in place thereof the following words:- intellectual or developmental disability.

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

SECTION 28. Section 69E of said chapter 111, as so appearing, is hereby amended by striking out, in line 9, the words “mental retardation” and inserting in place thereof the following words:- intellectual or developmental disability.

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

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

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

SECTION 32. Said section 72 of said chapter 111, as so appearing, is hereby further amended by striking out, in line 17, the words “mentally retarded and”.

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

SECTION 34. Section 193 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 12 to 13, the words “or retarded”.

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

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

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

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

SECTION 39. Section 1 of chapter 123A of the General Laws, as so appearing, is hereby amended by striking out, in lines 45 to 46, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 40. Chapter 123B of the General Laws is hereby amended by striking out the title and inserting in place thereof the following title:- Developmental Disabilities.

SECTION 41. Section 3 of said chapter 123B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 5, the phrase “the mentally retarded” and inserting in place thereof the following:- persons with intellectual disabilities.

SECTION 42. Said section 1 of said chapter 123B, as so appearing, is hereby further amended by inserting after the word "disability", in line 57, the following words:- ; provided, however, that no person shall be evaluated or denied services for an intellectual disability based solely on the use of intelligence quotient testing or educational testing.

SECTION 43. Said chapter 123B is hereby further amended by inserting after section 2 the following section:-

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

SECTION 44. Section 133E of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 45. Said section 13 of said chapter 131 is hereby amended by striking out, in lines 49 and 50, the words “mentally retarded” and inserting in place thereof, in each instance, the following words:- intellectually or developmentally disabled.

SECTION 46. Section 30A of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

155 SECTION 47. Section 28 of chapter 152 of the General Laws, as so appearing, is hereby
156 amended by striking out, in lines 13 to 14, the words “mentally retarded persons” and inserting in
157 place thereof the following words:- persons with intellectual or developmental disabilities.

158 SECTION 48. Subsection(a) of section 5 of chapter 161A of the General Laws, as so
159 appearing, is hereby amended by striking out, in line 11, the word “handicap” and inserting in
160 place thereof the following word:- disability.

161 SECTION 49. Section 25 of said chapter 161A, as so appearing, is hereby amended by
162 striking out, in lines 22 to 23, the words “handicapping condition” and inserting in place thereof
163 the following words:- disability.

164 SECTION 50. Section 120A of chapter 175 of the General Laws, as so appearing, is
165 hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place
166 thereof, in each instance, the following words:- intellectual or developmental disability.

167 SECTION 51. Section 17A of chapter 186 of the General Laws, as so appearing, is
168 hereby amended by striking out, in line 72, the words “mentally retarded persons” and inserting
169 in place thereof the following words:- persons with an intellectual or developmental disability.

170 SECTION 52. Section 5-101 of chapter 190B of the General Laws, as so appearing, is
171 hereby amended by striking out paragraph (12) .

172 SECTION 53. Said section 5-101 of said chapter 190B, as so appearing, is hereby further
173 amended by inserting after paragraph (18), the following paragraph:-

174 (18A) “Person with a developmental disability”, (a) an individual 5 years of age or older
175 with a severe, chronic disability that: (i) is attributable to a mental or physical impairment

176 resulting from intellectual disability, autism, Smith-Magenis syndrome or Prader-Willi
177 syndrome; (ii) is manifested before the individual attains age 22; (iii) is likely to continue
178 indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas
179 of major life activity: (1) self-care; (2) receptive and expressive language; (3) learning; (4)
180 mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-
181 sufficiency; and (v) reflects the individual's need for a combination and sequence of special,
182 interdisciplinary or generic services, supports or other assistance that is of a lifelong or extended
183 duration and is individually planned and coordinated; or (b) an individual under the age of 5 who
184 has a substantial developmental delay or specific congenital or acquired condition with a high
185 probability that the condition will result in a developmental disability if services are not
186 provided. A person who has a developmental disability may be considered to be mentally ill;
187 provided, however, that no person with a developmental disability shall be considered to be
188 mentally ill solely by reason of the person's developmental disability.

189 SECTION 54. Section 5-304 of said chapter 190B, as so appearing, is hereby amended
190 by striking out, in line 16, the words “mentally retarded” and inserting in place thereof the
191 following words:- intellectually or developmentally disabled.

192 SECTION 55. Section 5-309 of said chapter 190B, as so appearing, is hereby amended
193 by striking out, in line 57, the words “mental retardation” and inserting in place thereof the
194 following words:- developmental services.

195 SECTION 56. Section 32 of chapter 209 of the General Laws, as so appearing, is hereby
196 amended by striking out, in line 6, the words “mental retardation” and inserting in place thereof
197 the following words:- intellectual disability.

198 SECTION 57. Section 85V of chapter 231 of the General Laws, as so appearing, is
199 hereby amended by striking out, in line 24, the words “mentally retarded” and inserting in place
200 thereof the following words:- persons with intellectual or developmental disabilities.

201 SECTION 58. Section 23E of chapter 233 of the General Laws, as so appearing, is
202 hereby amended by striking out, in lines 36 and 50, the words “mental retardation” and inserting
203 in place thereof, in each instance, the following words:- an intellectual disability.

204 SECTION 59. Section 5B of chapter 260 of the General Laws, as so appearing, is hereby
205 amended by striking out, in line 5, the word “handicap” and inserting in place thereof the
206 following word:- disability.

207 SECTION 60. Section 13F of chapter 265 of the General Laws, as so appearing, is hereby
208 amended by striking out, in lines 2, 3, 12, 13, 14 to 15, and 15 to 16, the words “an intellectual
209 disability” and inserting in place thereof, in each instance, the following words:- an intellectual
210 or developmental disability.

211 SECTION 61. Said section 13F of said chapter 265, as so appearing, is hereby further
212 amended by striking out, in lines 21 to 22, and line 22, the words “mentally retarded person” and
213 inserting in place thereof, in each instance, the following words:- person with an intellectual or
214 developmental disability.

215 SECTION 62. Section 45 of said chapter 265, as so appearing, is hereby amended by
216 striking out, in line 3, the words “mentally retarded person” and inserting in place thereof the
217 following words:- person with an intellectual or developmental disability.

218 SECTION 63. Section 7 of chapter 268A of the General Laws, as so appearing, is hereby
219 amended by striking out, in line 66, the words “mentally retarded” and inserting in place thereof
220 the following words:- intellectually or developmentally disabled.