SENATE . . . . . No. 2594

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

SENATE, Wednesday, July 11, 2018

The committee on Rules to whom was referred the Senate Bill eliminating archaic language pertaining to individuals with disabilities in the Commonwealth of Massachusetts (Senate, No. 50),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2594).

For the committee,
Mark C. Montigny

SENATE . . . . . No. 2594

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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:

SECTION 1. Section 172C of chapter 6 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 5, the words "who is mentally retarded, as defined by section one of chapter one hundred and twenty-three B," and inserting in place thereof the following words:- with an intellectual disability or a person with a developmental disability as defined in section 1 of chapter 123B.

SECTION 2. Section 178C of said chapter 6, as so appearing, is hereby amended by striking out, in line 60, and in lines 137 and 138, the words "mentally retarded person" and inserting in place thereof, in each instance, the following words:- persons with an intellectual or developmental disabilities.

SECTION 3. Section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in line 235, the words "the mentally retarded" and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 4. Said section 178K of said chapter 6, as so appearing, is hereby further amended by striking out, in line 258, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 5. Section 22N of chapter 7 of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words “mental retardation” and inserting in place thereof the following words:- developmental disabilities.

SECTION 6. Section 38 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “retarded children” and inserting in place thereof the following words:- children with an intellectual disability.

SECTION 7. Said section 21 of said chapter 19, as so appearing, is hereby further amended by striking out, in line 16, the words "mentally retarded” and inserting in place thereof the following words:- intellectually or developmentally disabled.

SECTION 8. Section 7 of chapter 19B of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation”.

SECTION 9. Section 8 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation”.

SECTION 10. Said section 8 of said chapter 19B, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words “the mentally retarded” and inserting in place thereof the following words:- persons with an intellectual or developmental disability.

SECTION 11. Section 2 of chapter 21H of the General Laws, as so appearing, is hereby amended by striking out, in lines 73 and 74, the words “or mental institution, institution for the

mentally ill or retarded” and inserting in place thereof the following words:- institution or institution for the mentally ill or for persons with an intellectual or developmental disability.

SECTION 12. 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 13. Said section 47 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 32 and 33, the words “such mentally retarded person” and inserting in place thereof the following words:- a person with an intellectual disability.

SECTION 14. 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 15. 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 16. 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 17. Section 23 of chapter 32 of the General Laws is hereby amended by striking out, in line 418, the words “physical handicap” and inserting in place thereof the following word:- disability.

SECTION 18. Section 3 of chapter 38 of the General Laws, as so appearing, is hereby amended by striking out, in line 21, the words “ or mental retardation institution” and inserting in place thereof the following words:- institution or any other institutions for persons with an intellectual or developmental disability.

SECTION 19. 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 20. 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 21. 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 22. Said section 103 of said chapter 93, as so appearing, is hereby further amended by inserting after the word “with”, in line 3, the following words:- or without.

SECTION 23. 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 24. Section 24E of said chapter 111, 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 25. 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 26. Section 67E of said chapter 111, as so appearing, is hereby amended by striking out, in lines 40 and 41, the words “and mental retardation services” and inserting in place thereof the following words:- services and services for persons with an intellectual disability.

SECTION 27. Section 69E of said chapter 111, as so appearing, is hereby amended by striking out, in line 9, the words “and mental retardation services” and inserting in place thereof the following words:- services and services for persons with an intellectual or developmental disability.

SECTION 28. Section 71 of said chapter 111 is hereby amended by striking out, in lines 10, 24 and 25, 80, 92, 137, 183, 186 and 226, as so appearing, the words “the mentally retarded”

and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 29. The tenth paragraph of said section 71 of said chapter 111, as appearing in section 65 of chapter 6 of the acts of 2017, is hereby amended by striking out, in line 4, the words “the mentally retarded” and inserting in place thereof the following words:- persons with an intellectual.

SECTION 30. Said section 71 of said chapter 111 is hereby further amended by inserting after the word “mental”, in line 192, as appearing in the 2016 Official Edition, the following word:- health.

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

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 and 12, the word “retarded” and inserting in place thereof the following words:- persons or persons with an intellectual or developmental disability.

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

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

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:- an intellectual or developmental disability.

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 “ and mental retardation” and inserting in place thereof the following words:- services and service for persons with an intellectual or developmental disability.

SECTION 38. Section 14 of said chapter 122, as so appearing, is hereby amended by striking out, in lines 3 and 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 and 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, as so appearing, and inserting in place thereof the following title:- Developmental Services.

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

SECTION 42. 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 43. Said section 13 of chapter 131 of the General Laws, as so appearing, 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 44. Section 30A of chapter 149 of the General Laws is hereby amended by striking out, in line 22, as so appearing, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 45. Section 28 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words “mentally retarded persons eighteen” and inserting in place thereof the following words:- persons with an intellectual or developmental disability 18.

SECTION 46. Section 5 of chapter 161A of the General Laws is hereby amended by striking out, in line 11, as so appearing, the words “, or handicap” and inserting in place thereof the following words:- or disability.

SECTION 47. Section 25 of said chapter 161A, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words “handicapping condition” and inserting in place thereof the following words:- disability.

SECTION 48. Section 120A of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- intellectual or developmental disability.

SECTION 49. Section 17A of chapter 186 of the General Laws, as so appearing, is hereby amended by striking out, in line 72, the words “or mentally retarded persons” and inserting in place thereof the following words:- persons or persons with an intellectual or developmental disability.

SECTION 50. Section 5-101 of chapter 190B of the General Laws, as so appearing, is hereby amended by striking out clause (12) .

SECTION 51. Said section 5-101 of said chapter 190B, as so appearing, is hereby further amended by inserting after clause (18), the following clause:-

(18A) “Person with a developmental disability”, (a) an individual 5 years of age or older with a severe, chronic disability that: (i) is attributable to a mental or physical impairment resulting from intellectual disability, autism, Smith-Magenis syndrome or Prader-Willi syndrome; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (1) self-care; (2) receptive and expressive language; (3) learning; (4) mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-sufficiency; and (v) reflects the individual's need for a combination and sequence of special, interdisciplinary or generic services, supports or other assistance that is of a lifelong or extended duration and is individually planned and coordinated; or (b) an individual under the age of 5 who has a substantial developmental delay or specific congenital or acquired condition with a high

probability that the condition will result in a developmental disability if services are not provided. A person who has a developmental disability may be considered to be mentally ill; provided, however, that no person with a developmental disability shall be considered to be mentally ill solely by reason of the person's developmental disability.

SECTION 52. Section 5-304 of said chapter 190B, as so appearing, is hereby amended by striking out, in line 16, the words “mentally retarded” and inserting in place thereof the following words:- intellectually or developmentally disabled.

SECTION 53. Section 5-309 of said chapter 190B, as so appearing, is hereby amended by striking out, in line 57, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 54. Section 32 of chapter 209 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words “mental retardation” and inserting in place thereof the following words:- due to an intellectual disability.

SECTION 55. Section 85V of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the words “mentally retarded” and inserting in place thereof the following words:- persons with an intellectual or developmental disability.

SECTION 56. Said section 23E of said chapter 233, as so appearing, is hereby further amended by striking out, in lines 36 and 50, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 57. Section 5B of chapter 260 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word “handicap” and inserting in place thereof the following word:- disability.

SECTION 58. Section 13F of chapter 265 of the General Laws, as so appearing, is hereby amended by inserting after the word “intellectual”, in lines 2, 3, 12, 13, 14 and 15, each time it appears, the following words:- or developmental.

SECTION 59. Said section 13F of said chapter 265, as so appearing, is hereby further amended by striking out, in lines 21 and 22, the words “mentally retarded person upon another mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability upon another person with an intellectual or developmental disability.

SECTION 60. Section 45 of said chapter 265, as so appearing, is hereby amended by striking out, in line 3, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 61. Section 7 of chapter 268A of the General Laws, as so appearing, is hereby amended by striking out, in line 66, the words “or mentally retarded persons” and inserting in place thereof the following words:- persons or persons with an intellectual or developmental disability