

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

The Commonwealth of Massachusetts

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

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

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

10 SECTION 3. 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:- persons with an intellectual disability.

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

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

19 SECTION 6. 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 7. Said section 21 of said chapter 19, as so appearing, is hereby further
23 amended by striking out, in line 16, the words "mentally retarded” and inserting in place thereof
24 the following words:- intellectually or developmentally disabled.

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

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

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

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

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

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

42 SECTION 14. Section 1 of chapter 31A of the General Laws, as so appearing, is hereby
43 amended by striking out, in line 24, the word “handicap” and inserting in place thereof the
44 following word:- disability.

45 SECTION 15. Section 2 of said chapter 31A, as so appearing, is hereby amended by
46 inserting after the definition for “Department” the following definition:-

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

50 SECTION 16. Said section 2 of said chapter 31A, as so appearing, is hereby further
51 amended by inserting after the definition for “Local merit appeals board” the following
52 definition:-

53 “Major life activities” shall include, but are not limited to, caring for oneself, performing
54 manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking,

55 breathing, learning, reading, concentrating, thinking, communicating, and working. This term
56 also includes the meaning of “major bodily functions,” which include, but are not limited to,
57 functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological,
58 brain, respiratory, circulatory, endocrine, and reproductive functions.

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

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

66 SECTION 19. Section 3 of chapter 71B of the General Laws, as so appearing, is hereby
67 amended by striking out, in lines 175 and 217, the words “mental retardation” and inserting in
68 place thereof, in each instance, the following words:- developmental services.

69 SECTION 20. Section 4 of chapter 92B of the General Laws, as so appearing, is hereby
70 amended by striking out, in line of 28, the words “physical handicap” and inserting in place
71 thereof the following word:- disability.

72 SECTION 21. Section 103 of chapter 93 of the General Laws, as so appearing, is hereby
73 amended by striking out, in line 2, the word “handicap” and inserting in place thereof the
74 following word:- disability.

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

77 SECTION 23. Section 4O of chapter 111 of the General Laws, as so appearing, is hereby
78 amended by striking out, in line 24, the words “mental retardation” and inserting in place thereof
79 the following words:- developmental services.

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

83 SECTION 25. Section 62J of said chapter 111, as so appearing, is hereby amended by
84 striking out, in line 14, the words “mental retardation” and inserting in place thereof the
85 following words:- intellectual or developmental disability.

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

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

94 SECTION 28. Section 71 of said chapter 111 is hereby amended by striking out, in lines
95 10, 24 and 25, 80, 92, 137, 183, 186 and 226, as so appearing, the words “the mentally retarded”

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

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

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

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

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

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

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

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

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

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

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

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

131 SECTION 40. Chapter 123B of the General Laws is hereby amended by striking out the
132 title, as so appearing, and inserting in place thereof the following title:- Developmental Services.

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

136 SECTION 42. Section 133E of chapter 127 of the General Laws, as so appearing, is
137 hereby amended by striking out, in line 14, the words “mentally retarded person” and inserting in
138 place thereof the following words:- person with an intellectual or developmental disability.

139 SECTION 43. Said section 13 of chapter 131 of the General Laws, as so appearing, is
140 hereby amended by striking out, in lines 49 and 50, the words “mentally retarded” and inserting
141 in place thereof, in each instance, the following words:- intellectually or developmentally
142 disabled.

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

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

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

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

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

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

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

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

167 (18A) “Person with a developmental disability”, (a) an individual 5 years of age or older
168 with a severe, chronic disability that: (i) is attributable to a mental or physical impairment
169 resulting from intellectual disability, autism, Smith-Magenis syndrome or Prader-Willi
170 syndrome; (ii) is manifested before the individual attains age 22; (iii) is likely to continue
171 indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas
172 of major life activity: (1) self-care; (2) receptive and expressive language; (3) learning; (4)
173 mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-
174 sufficiency; and (v) reflects the individual's need for a combination and sequence of special,
175 interdisciplinary or generic services, supports or other assistance that is of a lifelong or extended
176 duration and is individually planned and coordinated; or (b) an individual under the age of 5 who
177 has a substantial developmental delay or specific congenital or acquired condition with a high

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

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

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

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

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

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

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

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

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

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

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