

**SENATE . . . . . No. 896**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Barbara A. L'Italien***

*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 prohibiting discrimination against adults with disabilities in family and juvenile court proceedings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/30/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>2/2/2017</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>2/2/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/2/2017</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/2/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/2/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>2/2/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>2/2/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/2/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2017</i>
<i>Tricia Farley-Bowvier</i>	<i>3rd Berkshire</i>	<i>2/3/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/3/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>5/10/2017</i>



**SENATE . . . . . No. 896**

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By Ms. L'Italien, a petition (accompanied by bill, Senate, No. 896) of Barbara A. L'Italien, Jason M. Lewis, James B. Eldridge, Sal N. DiDomenico and other members of the General Court for legislation to prohibit discrimination against adults with disabilities in family and juvenile court proceedings. The Judiciary.

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**The Commonwealth of Massachusetts**

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

An Act prohibiting discrimination against adults with disabilities in family and juvenile court proceedings.

*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. Chapter 208 of the General Laws is hereby amended by inserting after  
2 section 31A the following section:-

3 Section 31B. For the purposes of this chapter the following words shall have the  
4 following meanings, unless the context clearly indicates otherwise:-

5 “Adaptive parenting equipment”, includes any piece of equipment or any item that is  
6 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

7 “Disability”, a physical or mental impairment that substantially limits one or more major  
8 life activities of an individual, a record of such impairment, or being regarded as having such an  
9 impairment. This definition shall be broadly interpreted, consistent with the Americans with  
10 Disabilities Act Amendments Act of 2008.

11           “Supportive parenting services”, services that help parents with a disability compensate  
12 for those aspects of the disability that affect their ability to care for their children and that will  
13 enable them to discharge their parental responsibilities. The term includes, but is not limited to,  
14 specialized or adapted training, evaluations, and assistance with effective use of adaptive  
15 equipment, as well as accommodations that allow a parent with a disability to benefit from other  
16 services, such as braille text or sign language interpreters.

17           Nothing in this chapter shall allow a parent’s disability to be considered a negative factor  
18 in a determination of custody of or parenting time with a minor child, absent a specific showing  
19 by a preponderance of the evidence made by the party raising the allegation, that there is a nexus  
20 between the parent’s disability and alleged harm to the child, and that this alleged harm cannot  
21 be prevented or alleviated by accommodations for the disability, including adaptive parenting  
22 equipment or supportive parenting services.

23           If the court considers a parent’s disability as a negative factor in an award of custody of  
24 and or parenting time with a child, the court shall make specific written findings as to the nexus  
25 between the parent’s disability and harm to the child, what effect, if any, said harm has on the  
26 best interests of the child, and whether or not adaptive parenting equipment or supportive  
27 parenting services can alleviate said harm.

28           SECTION 2. Chapter 209C of the General Laws is hereby amended by inserting after  
29 section 10 the following section:-

30           Section 10A. For the purposes of this chapter the following words shall have the  
31 following meanings, unless the context clearly indicates otherwise:-

32           “Adaptive parenting equipment”, includes any piece of equipment or any item that is  
33 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

34           “Disability”, a physical or mental impairment that substantially limits one or more major  
35 life activities of an individual, a record of such impairment, or being regarded as having such an  
36 impairment. This definition shall be broadly interpreted, consistent with the Americans with  
37 Disabilities Act Amendments Act of 2008.

38           “Supportive parenting services”, services that help parents with a disability compensate  
39 for those aspects of the disability that affect their ability to care for their children and that will  
40 enable them to discharge their parental responsibilities. The term includes, but is not limited to,  
41 specialized or adapted training, evaluations, and assistance with effective use of adaptive  
42 equipment, as well as accommodations that allow a parent with a disability to benefit from other  
43 services, such as braille text or sign language interpreters.

44           Nothing in this chapter shall allow a parent’s disability or its manifestations to be  
45 considered a negative factor in a determination of custody of or parenting time with a minor  
46 child, absent a specific showing by a preponderance of the evidence made by the party raising  
47 the allegation, that there is a nexus between the parent’s disability and alleged harm to the child,  
48 and that this alleged harm cannot be prevented or alleviated by accommodations for the  
49 disability, including adaptive parenting equipment or supportive parenting services.

50           If the court considers a parent’s disability or its manifestations as a negative factor in an  
51 award of custody of and or parenting time with a child, the court shall make specific written  
52 findings as to the nexus between the parent’s disability and harm to the child, what effect, if any,

53 said harm has on the best interests of the child, and whether or not adaptive parenting equipment  
54 or supportive parenting services can alleviate said harm.

55 SECTION 3. Section 21 of said chapter 119, as appearing in the 2014 Official Edition, is  
56 hereby further amended by inserting after the second paragraph the following paragraph:-

57 “Adaptive parenting equipment”, includes any piece of equipment or any item that is  
58 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

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60 SECTION 4. Said section 21 of said chapter 119, as so appearing, is hereby further  
61 amended by inserting after the tenth paragraph the following paragraph:-

62 “Disability”, a physical or mental impairment that substantially limits one or more major  
63 life activities of an individual, a record of such impairment, or being regarded as having such an  
64 impairment. This definition shall be broadly interpreted, consistent with the Americans with  
65 Disabilities Act Amendments Act of 2008.

66 SECTION 5. Said section 21 of said chapter 119, as so appearing, is hereby further  
67 amended by inserting after the seventeenth paragraph the following paragraph:-

68 “Supportive parenting services”, services that help parents with a disability compensate  
69 for those aspects of the disability that affect their ability to care for their children and that will  
70 enable them to discharge their parental responsibilities. The term includes, but is not limited to,  
71 specialized or adapted training, evaluations, and assistance with effective use of adaptive  
72 equipment, as well as accommodations that allow a parent with a disability to benefit from other  
73 services, such as braille text or sign language interpreters.”

74 SECTION 6. Chapter 119 of the General Laws is hereby further amended by inserting  
75 after section 24 the following new section:-

76 Section 24A. Nothing in this chapter shall allow a parent's disability or its  
77 manifestations, as defined in section 21 of this chapter, to be considered a negative factor in a  
78 determination whether a child is in need of care and protection or for the removal of custody of a  
79 child from a parent, guardian, or other custodian, absent a specific showing by clear and  
80 convincing evidence made by the Department, that there is a nexus between the parent's  
81 disability and alleged harm to the child, and that this alleged harm cannot be prevented or  
82 alleviated by accommodations for the disability, including adaptive parenting equipment or  
83 supportive parenting services.

84 If the court considers a parent's disability or its manifestations as a negative factor in  
85 determining that a child is in need of care and protection or for the removal of custody of a child  
86 from a parent, guardian, or other custodian, the court shall make specific written findings as to  
87 the nexus between the parent's disability and harm to the child, the impact this has on current  
88 parental fitness, and whether or not adaptive parenting equipment or supportive parenting  
89 services can alleviate said harm or render the parent fit.

90 SECTION 7. Section 3 of chapter 210 of the General Laws, as appearing in the 2014  
91 Official Edition, is hereby amended by striking out clause (xii) of subsection (c), and inserting in  
92 place thereof the following clause:-

93 (xii) a failure of a parent to discharge parental responsibilities, that is reasonably likely to  
94 continue for a prolonged, indeterminate period, and that results in harm to the child, and cannot

95 be alleviated by adequate accommodations, including adaptive parenting equipment or  
96 supportive parenting services.

97 SECTION 8. Said chapter 210 is hereby further amended by inserting after section 3B the  
98 following section:-

99 Section 3C. For the purposes of this chapter the following words shall have the following  
100 meanings, unless the context clearly indicates otherwise:-

101 “Adaptive parenting equipment”, includes any piece of equipment or any item that is  
102 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

103 “Disability”, a physical or mental impairment that substantially limits one or more major  
104 life activities of an individual, a record of such impairment, or being regarded as having such an  
105 impairment. This definition shall be broadly interpreted, consistent with the Americans with  
106 Disabilities Act Amendments Act of 2008.

107 “Supportive parenting services”, services that help parents with a disability compensate  
108 for those aspects of the disability that affect their ability to care for their children and that will  
109 enable them to discharge their parental responsibilities. The term includes, but is not limited to,  
110 specialized or adapted training, evaluations, and assistance with effective use of adaptive  
111 equipment, as well as accommodations that allow a parent with a disability to benefit from other  
112 services, such as braille text or sign language interpreters.

113 Nothing in this chapter shall allow a parent’s disability or its manifestations to be  
114 considered a negative factor in determining whether to terminate parental rights, absent a specific  
115 showing by clear and convincing evidence made by the Department, that there is a nexus



116 between the parent’s disability and alleged harm to the child, and that this alleged harm cannot  
117 be prevented or alleviated by accommodations for the disability, including adaptive parenting  
118 equipment or supportive parenting services.

119 If the court considers a parent’s disability or its manifestations as a negative factor in  
120 determining whether to terminate parental rights, the court shall make specific written findings as  
121 to the nexus between the parent’s disability and harm to the child, the impact this has on current  
122 parental fitness, and whether or not adaptive parenting equipment or supportive parenting  
123 services can alleviate said harm or render the parent fit.

124

125 SECTION 9. Section 5-101 of said chapter 190B, as appearing in the 2014 Official  
126 Edition, is hereby amended by inserting, in line 2, after the words “this article:” the following  
127 words:-

128 “Adaptive parenting equipment”, includes any piece of equipment or any item that is  
129 used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

130 SECTION 10. Said section 5-101 of said chapter 190B, as so appearing, is hereby further  
131 amended by striking out the fourth paragraph and inserting in place thereof the following  
132 paragraph:-

133 (4) “Disability”, a physical or mental impairment that substantially limits one or more  
134 major life activities of an individual, a record of such impairment, or being regarded as having  
135 such an impairment. This definition shall be broadly interpreted, consistent with the Americans  
136 with Disabilities Act Amendments Act of 2008.

137 SECTION 11. Said section 5-101 of said chapter 190B, as so appearing, is hereby  
138 amended by inserting after the twenty fourth paragraph the following paragraph:-

139 (25) “Supportive parenting services”, services that help parents with a disability  
140 compensate for those aspects of the disability that affect their ability to care for their children and  
141 that will enable them to discharge their parental responsibilities. The term includes, but is not  
142 limited to, specialized or adapted training, evaluations, and assistance with effective use of  
143 adaptive equipment, as well as accommodations that allow a parent with a disability to benefit  
144 from other services, such as braille text or sign language interpreters.

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146 SECTION 12. Said chapter 190B of the General Laws is hereby further amended by  
147 inserting after section 5-204 the following section:-

148 Section 5-204A. Nothing in this chapter shall allow a parent’s disability or its  
149 manifestations to be considered a negative factor in determining whether to appointment a  
150 temporary or permanent guardian for a minor child, absent a specific showing by a clear and  
151 convincing evidence made by the party raising the allegation, that there is a nexus between the  
152 parent’s disability and alleged harm to the child, and that this alleged harm cannot be prevented  
153 or alleviated by accommodations for the disability, including adaptive parenting equipment or  
154 supportive parenting services.

155 If the court considers a parent’s disability or its manifestations as a negative factor in a  
156 determination whether to appoint a temporary or permanent guardian for a minor child, the court  
157 shall make specific written findings as to the nexus between the parent’s disability and harm to

158 the child, the impact this has on current parental fitness, and whether or not adaptive parenting  
159 equipment or supportive parenting services can alleviate said harm or render the parent fit.