

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

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.

The Commonwealth of Massachusetts

**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.

59

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.

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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.