

HOUSE No. 99

The Commonwealth of Massachusetts

PRESENTED BY:

Mark J. Cusack

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 to support the transition to adult services for persons with disabilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	<i>1/18/2019</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/23/2019</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/29/2019</i>

HOUSE No. 99

By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 99) of Mark J. Cusack, Louis L. Kafka and Jonathan Hecht for legislation to support the transition to adult services for persons with disabilities. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1953 OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act to support the transition to adult services for persons with disabilities.

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 2 of chapter 71B of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by adding after the sixth paragraph the following paragraph:-

3 “Said transition services to be provided by the school shall be closely coordinated with
4 habilitative services provided by the bureau of transition planning of the executive office of
5 health and human services, pursuant to section 12C of chapter 71B. To facilitate this
6 coordination, with the consent of the parents or a child who has reached the age of majority, the
7 child’s school committee, with no less than 21 calendar days’ notice, shall invite to the child’s
8 Individualized Education Plan (IEP) meeting a representative of the bureau of transition planning
9 or any participating adult service agency identified by the bureau that is known by the school to
10 be responsible for services pursuant to 20 U.S.C. §1414(d)(1)(D) or section 12C of chapter 71B.

11 In the event that there is no participating adult service agency known to be responsible for
12 services, the special education director or administrator employed by the school committee, or
13 his or her designee, shall contact the bureau of transition planning before sending this invitation.
14 The bureau shall respond, to the extent practicable, by designating and identifying an adult
15 services agency, or shall attend the IEP meeting on behalf of the executive office of health and
16 human services. Such representative shall attend at least one such IEP meeting for purposes of
17 facilitating transition planning, no later than two years before either the date the student is
18 anticipated to graduate from high school, or turn age twenty-two, whichever date is earlier. By
19 agreement of all participants, an Individualized Transition Plan (ITP) meeting to discuss services
20 to be provided by any designated adult services agency may be held concurrently with
21 Individualized Education Plan (IEP) meeting. The identification of services in an Individualized
22 Transition Plan (ITP), or the provision of other services provided by the bureau of transition
23 planning or an agency acting on its behalf, shall not be deemed to alter any existing obligation of
24 the local educational agency under state or federal law. If a participating agency, other than the
25 local educational agency, fails to provide the transition services described in the IEP, the local
26 educational agency shall reconvene the IEP Team to identify alternative strategies to meet the
27 transition objectives for the child set out in the IEP. When a child is graduating or attaining the
28 age of 22, whichever occurs first, the school shall provide to the student and to the participating
29 agency a summary of the child's academic achievement and functional performance, which shall
30 include recommendations on how to assist the child in meeting the child's postsecondary goals.

31 SECTION 2. Section 12A of chapter 71B, as appearing in the 2016 Official Edition, is
32 hereby amended by striking the definition of "Disabled person" in lines 3 through 9 and inserting
33 in place thereof the following definition:-

“Person with a disability”, a person with a physical or mental impairment that results in a substantial impediment to employment, or any individual listed on the registry of the Massachusetts Commission for the Blind.

Said Section 12A, as so appearing, is further amended by inserting the following definition:-

"Substantial impediment to employment" refers to a physical or mental impairment which, in light of attendant medical, psychological, vocational, educational and other related factors impedes an individual's occupational performance by preventing his/her obtaining, retaining, or preparing for employment consistent with his/her capacities and abilities.

Said Section 12A, as so appearing, is further amended by striking the definition of “substantial gainful activity.”

Said Section 12A, as so appearing, is further amended by striking “disabled person” in line 14 and 33 and inserting in each instance in place thereof the words :- "person with a disability"

Said Section 12A, as so appearing, is further amended in line 20 by adding the following sentence:-

“Habilitative services shall also include, when necessary, instruction in independent living skills and functional life skills, independent or supportive housing, preparation for postsecondary education, preparation for individualized and integrated competitive or supported employment, and training in self-advocacy.”

SECTION 3: Section 12B of chapter 71B of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking “disabled persons” in line 6 and inserting in place thereof the words :- "persons with disabilities"

SECTION 4: Section 12C of chapter 71B of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking the words “disabled person” in lines 1, 17, 31, 37, 44-45, 56, 65, 74-75, 92 and inserting in each instance in place thereof the words :- "person with disability"

Said Section 12C, as so appearing, is further amended in line 40 by adding the following sentence:-

“When such application is required, the bureau, or such other agency as may be providing a transition plan on its behalf, shall also provide training, assistance or referrals to students, parents and school regarding work incentive programs administered by the Social Security Administration for persons receiving disability benefits.”

SECTION 5: Subject to appropriation, notwithstanding other provisions of the General Laws, the Department of Developmental Services shall develop and administer a discretionary demonstration program to provide, as part of a pilot project, services which are parallel in scope to programs of “community intellectual disability services” pursuant to Sections 12 and 13 of the Chapter 19B of the General Laws. This program shall be limited to persons turning 22 (i.e., ages 20 to 24) with developmental disabilities, including persons with developmental disabilities who are not eligible for any adult services pursuant to M.G.L. c. 123B and regulations promulgated thereunder”. The pilot project shall be administered consistent with appropriations and shall be

limited to individuals who meet the developmental disabilities definition under the Developmental Disabilities Assistance and Bill of Rights Amendments Act of 2000, 42 U.S.C.. 15002(8)). The goals of the grant program shall be to meet the transitional needs of youth with developmental disabilities by expanding services and supports to those persons “without adult service agency ties” in the chapter 688 transition process, other than the Massachusetts Rehabilitation Commission, and to assist the Department in providing cost estimates to the Legislature pursuant to Section 6.

SECTION 6: The secretary of executive office of health and human services shall file a report to the Joint Committee on Children, Families and Persons with Disabilities, by January 1, 2020 and on an annual basis thereafter, describing information about the total number of individuals referred to the bureau of transition planning of the executive office of health and human services for habilitative services from the bureau or any agency acting on its behalf, and the total number of individuals for whom such services not made available. For such persons for whom services were not made available, and who were determined to be persons with disabilities, said report shall include the proportion of individuals in need of extended case management services related to transition planning, the proportion of types of habilitative services needed by these individuals, and the approximate cost of such type of services which were not provided.

SECTION 7: The executive office of health and human services shall file a report to the Joint Committee on Children, Families and Persons with Disabilities, by January 1, 2020 on proposed federal Medicaid revenue strategies to address adult service needs of transitioning students with disabilities who are not eligible for programs at state disability agencies. The report shall evaluate the use of the home and community based services (HCBS) state plan option,

99 Community Choice state option, Medicaid rehabilitation services option, HCBS waivers and
100 demonstration waivers. The report shall consider including ranges and methods of funding
101 needed for individuals with varying support needs, e.g., those who require employment supports
102 only, those who require social supports only, those who require community living/safety
103 supports, those who require nursing or medical supports and/or those who require some
104 combination.