

SENATE No. 2844

The Commonwealth of Massachusetts

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

SENATE, July 28, 2020.

The committee on Senate Ways and Means to whom was referred the Senate Bill creating higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities (Senate, No. 2539); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2844.

For the committee,
Michael J. Rodrigues

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

An Act creating higher education opportunities for students with intellectual disabilities, autism, and other developmental 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 1 of chapter 15A of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the word “opportunities”, in line 14, the
3 following words:- , including individuals with severe intellectual disabilities, severe autism
4 spectrum disorders or other severe developmental disabilities.

5 SECTION 2. Said section 1 of said chapter 15A of the General Laws, as so appearing, is
6 hereby further amended by striking out, in line 23, the word “and” the second time it appears.

7 SECTION 3. Said section 1 of said chapter 15A of the General Laws, as so appearing, is
8 hereby further amended by striking out, in line 28, the word “levels.” and inserting in place
9 thereof the following words:- levels; and.

10 SECTION 4. The third paragraph of said section 1 of said chapter 15A, as so appearing,
11 is hereby amended by adding the following clause:-

12 (d) to provide inclusive educational opportunities for individuals with severe intellectual
13 disabilities, severe autism spectrum disorders or other severe developmental disabilities in order
14 to improve academic achievement, develop employment and independent living skills and
15 enhance the learning environment for all citizens.

16 SECTION 5. The fourth paragraph of section 7 of said chapter 15A, as so appearing, is
17 hereby amended by inserting after the word “students”, in line 35, the following words:- and
18 students with severe intellectual disabilities, severe autism spectrum disorders or other severe
19 developmental disabilities.

20 SECTION 6. The second sentence of subsection (b) of section 7A of said chapter 15A, as
21 so appearing, is hereby amended by striking out clauses (8) and (9) and inserting in place thereof
22 the following 3 clauses:- (8) supporting early childhood to grade 12 education programs; (9)
23 maximizing fundraising from private sources; and (10) improving access for students with severe
24 intellectual disabilities, severe autism spectrum disorders or other severe developmental
25 disabilities.

26 SECTION 7. The second sentence of subsection (i) of said section 7A of said chapter
27 15A, as so appearing, is hereby amended by striking out clauses (8) and (9) and inserting in place
28 thereof the following 3 clauses:- (8) to ensure cost-effective use of resources; (9) to maximize
29 fundraising from private sources; and (10) to improve access for students with severe intellectual
30 disabilities, severe autism spectrum disorders or other severe developmental disabilities.

31 SECTION 8. Said chapter 15A is hereby further amended by inserting after section 30
32 the following section:-

33 Section 30A. (a) In order to ensure that individuals with severe intellectual disabilities,
34 severe autism spectrum disorders or other severe developmental disabilities have opportunities to
35 be included in all aspects of higher education for the purpose of gaining academic, career,
36 technical and independent living skills to prepare them for adult life, including, but not limited
37 to, employment and civic engagement, such individuals shall not be required to: (i) take any
38 standardized college entrance aptitude test; (ii) have a high school diploma or its equivalent; (iii)
39 meet minimum academic course requirements; (iv) meet minimum grade point average
40 requirements; or (v) obtain a passing score on the statewide assessment tests utilized as a basis
41 for competency determination under section 1D of chapter 69, in order to participate in
42 undergraduate academic courses, internships and work-based trainings, extracurricular activities
43 and all other aspects of campus life in accordance with this section.

44 (b) Public institutions of higher education, in consultation with the department of higher
45 education and consistent with the purposes of this section, may create guidelines to select
46 students participating in higher education pursuant to this section, including, but not limited to,
47 guidelines to determine campus capacity and to coordinate selection of students with relevant
48 local, state or other public agencies serving students with severe intellectual disabilities, severe
49 autism spectrum disorders or other severe developmental disabilities; provided, however, that
50 these individuals shall not be denied opportunities to participate in higher education solely due to
51 their intellectual disability, autism spectrum disorders or developmental disability. Public
52 institutions of higher education, in consultation with the department of higher education and
53 consistent with the purposes of this section, may also establish course selection guidelines to
54 help ensure that participating individuals receive guidance in selecting courses that are
55 appropriate to their individual strengths, needs, preferences and interests. Participating

56 individuals shall be permitted to: (i) take a credit-bearing, undergraduate academic course for
57 credit if they have met the course prerequisites and requirements; or (ii) audit a credit-bearing,
58 undergraduate academic course, consistent with campus policies governing selection of students
59 for audit participation, if they have not met the course prerequisites and requirements.

60 Nothing in this section shall require a public institution of higher education to provide
61 course enrollment or audit preference for students with severe intellectual disabilities, severe
62 autism spectrum disorders or other severe developmental disabilities, relative to other persons
63 seeking to enroll or audit a course. Nothing in this section shall require a public institution of
64 higher education to include students with severe intellectual disabilities, severe autism spectrum
65 disorders or other severe developmental disabilities in graduate and continuing education
66 courses.

67 (c) Individuals participating in higher education pursuant to subsection (a) shall have
68 access to and be included in all academic and non-academic opportunities at public institutions
69 of higher education to have inclusive educational opportunities to acquire academic, career,
70 technical and independent living skills that prepare them for adult life including, but not limited
71 to, employment and civic engagement. Individual supports and services shall be made available
72 to support inclusion in academic courses, extracurricular activities and other aspects of campus
73 life; provided, however, that nothing in this subsection shall supersede subsections (b) and (d).

74 (d) Public institutions of higher education shall not be required to bear the costs of
75 individual supports and services that exceed the kind of supports and services generally provided
76 by public institutions of higher education. Costs associated with supporting participation in
77 public institutions of higher education under this section shall be: (i) an approved expense as a

78 special education service pursuant to section 5 of chapter 71B and shall be considered secondary
79 school education; provided, however, that a student's participation in higher education is
80 addressed in the student's Individualized Education Program under section 3 of said chapter 71B
81 for students ages 18 to 21 years old, inclusive; provided further, that such student is considered
82 to have a severe intellectual disability, a severe autism spectrum disorder or other severe
83 developmental disability; provided further, that in the case of students who are age 18 or 19,
84 participation shall be limited to students with a severe intellectual disability, a severe autism
85 spectrum disorder or other severe developmental disability who have been unable to obtain a
86 passing score on the statewide assessment tests utilized as a basis for competency determination
87 under section 1D of chapter 69; provided further, that in the case of students ages 20 or 21,
88 participation shall be limited to students with a severe intellectual disability, a severe autism
89 spectrum disorder or other severe developmental disability who have been unable to obtain a
90 passing score on the statewide assessment tests utilized as a basis for competency
91 determinations, under said section 1D of said chapter 69 or who have already been determined
92 eligible for special education and have also been determined by the Individualized Education
93 Program team to have severe functional delays impacting independent living, communication or
94 behavioral skills resulting in skills that are significantly below chronological age; and provided
95 further, that nothing in this section shall impose an additional cost on a school committee beyond
96 the cost of what is required under state or federal special education law; (ii) subject to the
97 availability of federal funding and appropriation provided under section 74 of chapter 6 for
98 individuals who are determined eligible for vocational rehabilitation services; provided,
99 however, that access to higher education assists in the attainment of an identified employment
100 goal, as determined by the agency, consistent with all applicable regulations and subject to the

101 development of an Individualized Plan for Employment; (iii) subject to appropriation under
102 chapter 19B for individuals 22 years of age or older who are determined eligible for services;
103 provided, however, that the individual supports and services are determined to be an appropriate
104 support, of the type, frequency and duration identified in an assessment conducted by the
105 department, and subject to the development of an annual individual support plan. Costs of
106 participation may be covered by any other public or private sources available to the student.

107 (e) Participating individuals under this section shall be required to follow the public
108 institution of higher education's student behavioral policies, including the student code of
109 conduct, antidiscrimination and sexual violence policies; provided, however, that the public
110 institution of higher education shall provide such policies in accessible formats and shall provide
111 reasonable accommodations for participating individuals in any process instituted thereunder.

112 (f) Nothing in this section shall be construed to impose any liability against any school
113 district or any public institution of higher education, including trustees, officers, administrators
114 or employees of the school district or public institution of higher education.

115 (g) Nothing in this section shall be construed as creating or imposing a specific duty of
116 care, nor shall this section create or impose a private right of action against any school district or
117 any public institution of higher education, including trustees, officers, administrators or
118 employees of a school district or public institution of higher education.

119 SECTION 9. Section 2 of chapter 71B of the General Laws, as appearing in the 2018
120 Official Edition, is hereby amended by adding the following paragraph:-

121 Students who are 18 to 21 years old, inclusive, have severe intellectual disabilities, severe
122 autism spectrum disorders or other severe developmental disabilities and are receiving special

123 education services may also have program options including, but not limited to, continuing
124 education, participation in credit and noncredit courses that include students without disabilities
125 in an institution of higher education, development of independent living skills, development of
126 skills necessary for employment and development of skills to access community services.
127 Participation of such students in institutions of higher education under this section shall be
128 considered an approved expense as a special education service pursuant to section 5 and shall be
129 considered secondary school education; provided, however, that this service is addressed in the
130 student's Individualized Education Program.

131 SECTION 10. Said chapter 71B is hereby amended by adding the following section:-

132 Section 17. (a) Subject to appropriation, the department of higher education shall develop
133 and administer a discretionary grant program, which shall include planning or implementation
134 grants, to provide monies to school committees and public institutions of higher education
135 partnering to offer inclusive concurrent enrollment initiative options for school-aged children
136 who are 18 to 21 years old, inclusive, and are considered to have severe intellectual disabilities,
137 severe autism spectrum disorders or other severe developmental disabilities. The program shall
138 be limited: (i) for students who are 18 or 19 years old, to students with a severe intellectual
139 disability, a severe autism spectrum disorder or other severe developmental disability who have
140 been unable to achieve the competency determination necessary to pass the statewide assessment
141 test pursuant to section 1D of chapter 69; and (ii) for students who are 20 or 21 years old, to
142 students with severe disabilities who have been unable to obtain a passing score on the statewide
143 assessment tests utilized as a basis for competency determination under said section 1D of said
144 chapter 69 or have been determined by the Individualized Education Program team to have
145 severe functional delays impacting independent living, communication or behavioral skills

146 resulting in skills that are significantly below chronological age; provided, however, that public
147 institutions of higher education may also include students with severe intellectual disabilities,
148 severe autism spectrum disorders or other severe developmental disabilities over the age of 21
149 who have been unable to obtain a passing score on the statewide assessment tests utilized as a
150 basis for competency determination under said section 1D of said chapter 69.

151 (b) The grant program shall enable school committees to partner with public institutions
152 of higher education in order to assist in meeting the transitional needs of eligible students
153 pursuant to subsection (a), which shall include facilitating movement from school to post-school
154 activities and competitive employment. The grant program shall be based on a results-oriented
155 process focused on improving academic and functional achievement in accordance with the
156 federal Individuals with Disabilities Education Act.

157 (c) The grant program shall support participation of any relevant state or other agency
158 serving students with severe intellectual disabilities, severe autism spectrum disorders or other
159 severe developmental disabilities, including, but not limited to, the department of developmental
160 services, the Massachusetts rehabilitation commission or other vocational rehabilitation agency
161 or organization to support student academic success, participation in student life of the college
162 community and competitive employment.

163 (d) The grant program shall support partnerships that provide: (i) participation in credit-
164 bearing and non-credit courses that include students without disabilities, including participation
165 in credit-bearing courses in audit status for students who may not meet course prerequisites; (ii)
166 participation in on-campus student life activities; (iii) preparation for competitive employment;
167 (iv) the waiver of tuition for courses by the public institution of higher education; (v) the

168 provision of supports and services necessary to facilitate a student's participation and support
169 inclusion in academic courses, extracurricular activities, internships, work experiences and other
170 aspects of the institution's postsecondary program; (vi) education, training and technical
171 assistance for teachers, faculty and personnel regarding strategy and teaching methodology to
172 achieve successful inclusion of individuals with severe intellectual disabilities, severe autism
173 spectrum disorders or other severe developmental disabilities; (vii) full inclusion of students with
174 severe intellectual disabilities, severe autism spectrum disorders or other severe developmental
175 disabilities in all aspects of higher education including, but not limited to, academic and social
176 activities; and (viii) the utilization of person-centered planning in the development of the course
177 of study for each participating student. Partnerships with institutions of higher education that
178 offer dormitory living may also include opportunities for students with severe intellectual
179 disabilities, severe autism spectrum disorders or other severe developmental disabilities to live in
180 residential housing.

181 (e) The department of higher education shall establish an inclusive concurrent enrollment
182 advisory board to advise the department on efforts to implement inclusive concurrent enrollment
183 and to participate in educational outreach efforts related to inclusive concurrent enrollment. The
184 inclusive concurrent enrollment advisory board shall include the following members or their
185 designees, who shall serve without compensation: the inclusive concurrent enrollment
186 coordinator, who shall serve as chair; the secretary of education; the commissioner of higher
187 education; the commissioner of elementary and secondary education; the commissioner of
188 developmental services; the commissioner of the Massachusetts rehabilitation commission; a
189 representative of the Massachusetts Administrators for Special Education; a representative of the
190 Massachusetts Association of School Committees, Inc.; a representative of the Massachusetts

191 Association of School Superintendents, Inc.; a representative of Massachusetts Advocates for
192 Children, Inc.; a representative of the Federation for Children with Special Needs, Inc.; a
193 representative of the Institute for Community Inclusion; not less than 2 representatives of school
194 districts and public institutions of higher education that have successfully implemented inclusive
195 concurrent enrollment initiatives, to be appointed by the chair; and 2 students who are
196 participating or have participated in an inclusive concurrent enrollment program, to be appointed
197 by the chair. The inclusive concurrent enrollment advisory board shall meet not less than
198 quarterly. If an inclusive concurrent enrollment coordinator is not designated pursuant to
199 subsection (f), the commission of the department of higher education shall select another chair.

200 (f) Subject to appropriation, the department of higher education shall designate an
201 inclusive concurrent enrollment coordinator to manage grant administration and coordinate
202 reporting.

203 (g) Annually, not later than December 1, the executive office of education shall file a
204 report with the joint committee on education, the joint committee on higher education and the
205 house and senate committees on ways and means on the status of the inclusive concurrent
206 enrollment grant program established pursuant to subsection (a). The report shall include, but not
207 be limited to:

208 (i) enrollment data detailing the number of students enrolled in inclusive concurrent
209 enrollment each semester and the unduplicated count of total students served at each institution
210 of higher education;

211 (ii) a list of all full-time and part-time employment positions supported by the grant
212 program that are dedicated to supporting students participating in the inclusive concurrent

213 enrollment program and the average salary for those positions including, but not limited to: (A)
214 educational coaches; (B) educational specialists; (C) job coaches and vocational specialists; (D)
215 program specialists; (E) program directors; (F) peer mentors, note-takers and tutors; (G)
216 contracted employees and; (H) parent and school committee liaisons;

217 (iii) a list of all courses taken by students participating in the inclusive concurrent
218 enrollment program during the academic year indicating whether the student participated in the
219 course for credit or for audit and whether the student passed or completed the course;

220 (iv) a summary of innovative strategies and practices implemented at each institution of
221 higher education that helped foster relationships with school committees;

222 (v) employment data for students participating in the inclusive concurrent enrollment
223 program, obtained to the best of the ability of participating school committees and institutions of
224 higher education; and

225 (vi) the total funding received for the program, including amounts allocated to each
226 grantee and any executive agency or participating state board, department or institute of higher
227 education.

228 SECTION 11. The secretary of education and the secretary of health and human services
229 shall, as necessary, develop inter-agency agreements, policies and practices with the department
230 of higher education, the department of elementary and secondary education, public institutions of
231 higher education, school committees, the department of developmental services, the
232 Massachusetts rehabilitation commission and other relevant agencies in order to maximize
233 federal financial participation through Medicaid, maximize federal financial aid, support
234 institutions of higher education offering opportunities to include individuals with severe

235 intellectual disabilities, severe autism spectrum disorders or other severe developmental
236 disabilities who are more than 22 years old pursuant to section 30A of chapter 15A of the
237 General Laws or section 17 of chapter 71B of the General Laws and address any other issues
238 necessary for successful inclusion of students with severe intellectual disabilities, severe autism
239 spectrum disorders or other severe developmental disabilities in higher education.

240 SECTION 12. The department of higher education and the department of elementary and
241 secondary education, in consultation with the inclusive concurrent enrollment initiative advisory
242 board, the executive officer of the Council of Presidents of the Massachusetts State University
243 System or a designee, the president of the University of Massachusetts or a designee and the
244 executive director of Massachusetts Community Colleges Executive Office or a designee shall
245 issue guidelines to implement section 17 of chapter 71B of the General Laws not later than
246 March 15, 2022.

247 SECTION 13. Sections 8 to 10, inclusive, shall take effect on August 1, 2021.