

SENATE No. 983

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/28/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>1/28/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/31/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/1/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/1/2019</i>
<i>Maria Duaiame Robinson</i>	<i>6th Middlesex</i>	<i>2/7/2019</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/27/2019</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>3/18/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/18/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/19/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/31/2020</i>

SENATE No. 983

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 983) of Joan B. Lovely, Bradford Hill, Walter F. Timilty, Anne M. Gobi and other members of the General Court for legislation to prohibit discrimination against adults with disabilities in family and juvenile court proceedings. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 896 OF 2017-2018.]

The Commonwealth of Massachusetts

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

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 further amended by inserting
2 after 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”, any piece of equipment or any item used to increase,
6 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 in a manner consistent with the
10 Americans with 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 or its manifestations to be
18 considered a negative factor in a determination of custody of or parenting time with a minor
19 child, absent a specific showing by a preponderance of the evidence made by the party raising
20 the allegation, that there is a nexus between the parent’s disability, or its manifestations, and
21 alleged harm to the child, and that this alleged harm cannot be prevented or alleviated by
22 accommodations for the disability, including adaptive parenting equipment or supportive
23 parenting services.

24 If the court considers a parent’s disability or its manifestations as a negative factor in an
25 award of custody of and or parenting time with a child, then the court shall make specific written
26 findings as to the nexus between the parent’s disability, or its manifestations, and harm to the
27 child, what effect, if any, said harm has on the best interests of the child, and whether adaptive
28 parenting equipment or supportive parenting services can alleviate said harm.

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

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

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

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

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

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

52 If the court considers a parent’s disability or its manifestations as a negative factor in an
53 award of custody of and or parenting time with a child, then the court shall make specific written
54 findings as to the nexus between the parent’s disability, or its manifestations, and harm to the
55 child, what effect, if any, said harm has on the best interests of the child, and whether adaptive
56 parenting equipment or supportive parenting services can alleviate said harm.

57 SECTION 3. Section 21 of chapter 119, as appearing in the 2016 Official Edition, is
58 hereby further amended by inserting after the second paragraph the following paragraph:-

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

61 SECTION 4. Section 21 of said chapter 119, as so appearing, is hereby further amended
62 by inserting after the eleventh paragraph the following paragraph:-

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

67 SECTION 5. Section 21 of said chapter 119, as so appearing, is hereby further amended
68 by inserting after the twenty second paragraph the following paragraph:-

69 “Supportive parenting services”, services that help parents with a disability compensate
70 for those aspects of the disability that affect their ability to care for their children and that will
71 enable them to discharge their parental responsibilities. The term includes, but is not limited to,
72 specialized or adapted training, evaluations, and assistance with effective use of adaptive

73 equipment, as well as accommodations that allow a parent with a disability to benefit from other
74 services, such as braille text or sign language interpreters.

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

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

85 If the court considers a parent's disability or its manifestations as a negative factor in
86 determining that a child is in need of care and protection or for the removal of custody of a child
87 from a parent, guardian, or other custodian, then the court shall make specific written findings as
88 to the nexus between the parent's disability, or its manifestations, and harm to the child, the
89 impact this has on current parental fitness, and whether adaptive parenting equipment or
90 supportive parenting services can alleviate said harm or render the parent fit.

91 SECTION 7. Section 3 of chapter 210 is hereby further amended by striking out
92 subsection (c)(xii), as appearing in the 2016 Official Edition, and inserting in place thereof the
93 following subsection:-

94 Section 3(c)(xii). A failure of a parent to discharge parental responsibilities that is
95 reasonably likely to continue for a prolonged, indeterminate period, and that results in harm to
96 the child, and cannot be alleviated by adequate accommodations, including adaptive parenting
97 equipment or supportive parenting services.

98 SECTION 8. Chapter 210 of the General Laws is hereby further amended by inserting
99 after section 3B the following section:-

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

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

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

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

114 Nothing in this chapter shall allow a parent’s disability or its manifestations to be
115 considered a negative factor in determining whether to terminate parental rights, absent a specific
116 showing by clear and convincing evidence made by the department, that there is a nexus between
117 the parent’s disability, or its manifestations, and alleged harm to the child, and that this alleged
118 harm cannot be prevented or alleviated by accommodations for the disability, including adaptive
119 parenting equipment or supportive parenting services.

120 If the court considers a parent’s disability or its manifestations as a negative factor in
121 determining whether to terminate parental rights, then the court shall make specific written
122 findings as to the nexus between the parent’s disability, or its manifestations, and harm to the
123 child, the impact this has on current parental fitness, and whether adaptive parenting equipment
124 or supportive parenting services can alleviate said harm or render the parent fit.

125 SECTION 9. Section 5-101 of said chapter 190B, as appearing in the 2016 Official
126 Edition, is hereby amended by inserting before the first paragraph the following paragraph:-

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

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

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

135 SECTION 11. Section 5-101 of said chapter 190B, as so appearing, is hereby amended
136 by inserting after the twenty fourth paragraph the following paragraph:-

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

143 SECTION 12. Chapter 190B of the General Laws is hereby amended by inserting after
144 section 5-204 the following section:-

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

152 If the court considers a parent’s disability or its manifestations as a negative factor in a
153 determination whether to appoint a temporary or permanent guardian for a minor child, then the
154 court shall make specific written findings as to the nexus between the parent’s disability, or its
155 manifestations, and harm to the child, the impact this has on current parental fitness, and whether

156 adaptive parenting equipment or supportive parenting services can alleviate said harm or render
157 the parent fit.