

HOUSE No. 1711**The Commonwealth of Massachusetts**

PRESENTED BY:

Kay Khan

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:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/28/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/1/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/1/2021</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>2/3/2021</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>2/5/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/9/2021</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/9/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/9/2021</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/10/2021</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/10/2021</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>2/18/2021</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>2/23/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/25/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/25/2021</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>2/25/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/26/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>2/26/2021</i>

<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>3/1/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/26/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/29/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>4/1/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>4/2/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>6/2/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>9/3/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>10/22/2021</i>

HOUSE No. 1711

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 1711) of Kay Khan and others relative to adults with disabilities in family and juvenile court proceedings. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1487 OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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, as appearing in the 2018 Official Edition of the the General
2 Laws, is hereby amended by inserting 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, as appearing in the 2018 Official Edition of the General
30 Laws, is hereby amended by inserting after section 10 the following section:-

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

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

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

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

Nothing in this chapter shall allow a parent’s disability or its manifestations to be considered a negative factor in a determination of custody of or parenting time with a minor child, absent a specific showing by a preponderance of the evidence made by the party raising the allegation, that there is a nexus between the parent’s disability, or its manifestations, and alleged harm to the child, and that this alleged harm cannot be prevented or alleviated by accommodations for the disability, including adaptive parenting equipment or supportive 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 2018 Official Edition, is
58 hereby 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. Said section of said chapter as so appearing, is hereby further amended by
62 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. Said section of said chapter, as so appearing, is hereby further amended by
68 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

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

SECTION 6. Said chapter, as so appearing, is hereby further amended by inserting after section 24 the following section:-

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

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

SECTION 7. Section 3 of chapter 210, as appearing in the 2018 Official Edition of the General Laws, is hereby amended by striking out subsection (c)(xii), as appearing in the 2018 Official Edition, and inserting in place thereof the following subsection:-

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

SECTION 8. Chapter 210, as so appearing, is hereby further amended by inserting after section 3B the following section:-

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

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

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

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

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

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

SECTION 9. Section 5-101 of chapter 190B, as appearing in the 2018 Official Edition of the General Laws, is hereby amended by inserting before the first paragraph the following paragraph:-

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

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

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

SECTION 11. Said section of said chapter, as so appearing, is hereby further amended by inserting after the twenty fourth paragraph the following paragraph:-

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

SECTION 12. Said chapter, as so appearing, is hereby further amended by inserting after section 5-204 the following section:-

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

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

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