

SENATE No. 1083

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>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/25/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/25/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/4/2021</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>3/12/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>3/27/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/29/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/1/2021</i>

SENATE No. 1083

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1083) of Joan B. Lovely, Michael J. Barrett, Kay Khan, Michael O. Moore 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. 983 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 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 of the General Laws is hereby further amended
58 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) and inserting in place thereof the following subsection:-

93 Section 3(c)(xii). A failure of a parent to discharge parental responsibilities that is
94 reasonably likely to continue for a prolonged, indeterminate period, and that results in harm to

95 the child, and cannot be alleviated by adequate accommodations, including adaptive parenting
96 equipment or supportive parenting services.

97 SECTION 8. Chapter 210 of the General Laws is hereby further amended by inserting
98 after section 3B the 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 used to
102 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 in a manner consistent with the
106 Americans with 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 between

116 the parent’s disability, or its manifestations, and alleged harm to the child, and that this alleged
117 harm cannot be prevented or alleviated by accommodations for the disability, including adaptive
118 parenting 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, then the court shall make specific written
121 findings as to the nexus between the parent’s disability, or its manifestations, and harm to the
122 child, the impact this has on current parental fitness, and whether adaptive parenting equipment
123 or supportive parenting services can alleviate said harm or render the parent fit.

124 SECTION 9. Section 5-101 of said chapter 190B is hereby further amended by inserting
125 before the first paragraph the following paragraph:-

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

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

131 (4) “Disability”, a physical or mental impairment that substantially limits one or more
132 major life activities of an individual, a record of such impairment, or being regarded as having
133 such an 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 paragraphs:-

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

143 (26) "Ward", a person for whom a guardian has been appointed solely because of
144 minority.

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

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

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

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