

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 Uyterhoeven</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

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.

If the court considers a parent’s disability or its manifestations as a negative factor in an award of custody of and or parenting time with a 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, what effect, if any, said harm has on the best interests of the child, and whether adaptive parenting equipment or supportive parenting services can alleviate said harm.

SECTION 2. Chapter 209C of the General Laws is hereby further 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 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

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. Chapter 119 of the General Laws 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 is hereby further amended by striking out subsection (c)(xii) 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 of the General Laws 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 said chapter 190B is hereby further 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. Section 5-101 of said chapter 190B, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

(4) “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. Section 5-101 of said chapter 190B, as so appearing, is hereby amended by inserting after the twenty fourth paragraph the following paragraphs:-

(25) "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.

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

SECTION 12. Chapter 190B of the General Laws is hereby 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

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