HOUSE DOCKET, NO. 2670 FILED ON: 1/19/2023

HOUSE . . . . . No. 1601

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan and Jay D. Livingstone

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:
Kay Khan	*11th Middlesex*	*1/19/2023*
Jay D. Livingstone	*8th Suffolk*	*1/30/2023*
Josh S. Cutler	*6th Plymouth*	*1/30/2023*
James K. Hawkins	*2nd Bristol*	*1/30/2023*
Vanna Howard	*17th Middlesex*	*1/31/2023*
Carmine Lawrence Gentile	*13th Middlesex*	*2/8/2023*
Jack Patrick Lewis	*7th Middlesex*	*2/8/2023*
James B. Eldridge	*Middlesex and Worcester*	*2/11/2023*
Mindy Domb	*3rd Hampshire*	*4/8/2023*
Joan B. Lovely	*Second Essex*	*4/12/2023*
Michael P. Kushmerek	*3rd Worcester*	*4/14/2023*
Samantha Montaño	*15th Suffolk*	*4/19/2023*
Lindsay N. Sabadosa	*1st Hampshire*	*5/31/2023*
David Allen Robertson	*19th Middlesex*	*6/4/2023*
Brian W. Murray	*10th Worcester*	*6/25/2023*
Natalie M. Higgins	*4th Worcester*	*6/29/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*7/10/2023*

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HOUSE . . . . . No. 1601

By Representatives Khan of Newton and Livingstone of Boston, a petition (accompanied by bill, House, No. 1601) of Kay Khan, Jay D. Livingstone and others relative to adults with disabilities in family and juvenile court proceedings. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1711* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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:

SECTION 1. Chapter 208, as appearing in the 2018 Official Edition of the General Laws, is hereby amended by inserting after section 31A the following section:-

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

"Adaptive parenting equipment", 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 a parent 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, including, but not limited to, specialized or adapted training, evaluations, assistance with effective use of adaptive equipment, peer supports or other psychosocial parental skill building therapies or services, and 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 or of 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 or of 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, as appearing in the 2018 Official Edition of the General 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 or of 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 3. Section 21 of chapter 119, as appearing in the 2018 Official Edition, is hereby amended by inserting after the second 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 4. Said section of said chapter as so appearing, is hereby further amended by inserting after the eleventh paragraph 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 5. Said section of said chapter, as so appearing, is hereby further amended by inserting after the twenty second 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 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 of 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 a parent 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, including but not limited to, specialized or adapted training, evaluations, assistance with effective use of adaptive equipment, peer

supports or other psychosocial parental skill building therapies or services, and 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; provided further, the court shall dismiss the department's petition under this section if the court finds that the department acted in violation of this subsection of section 3, or 42 U.S.C. 12132 or 29 U.S.C. 794.

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 a parent 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, including, but not limited to, specialized or adapted training, evaluations, assistance with effective use of adaptive equipment, peer supports or other psychosocial parental skill building therapies or services, and 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 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 of 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 adaptive parenting equipment or supportive parenting services can alleviate said harm or render the parent fit.