

SENATE No. 1037**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>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/30/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/8/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/8/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/8/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/21/2023</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>4/7/2023</i>
<i>Liz Miranda</i>	<i>Second Suffolk</i>	<i>5/17/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>7/11/2023</i>

SENATE No. 1037

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1037) of Joan B. Lovely, Sal N. DiDomenico, Michael O. Moore, Jack Patrick Lewis 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. 1083 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:

1 SECTION 1. Chapter 208, as appearing in the 2020 Official Edition of the General Laws,
2 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 a parent 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, including, but not limited to, specialized
14 or adapted training, evaluations, assistance with effective use of adaptive equipment, peer
15 supports or other psychosocial parental skill building therapies or services, and accommodations
16 that allow a parent with a disability to benefit from other services, such as braille text or sign
17 language interpreters.

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

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

SECTION 2. Chapter 209C, as appearing in the 2020 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 2020 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 2020 Official Edition of the General Laws, is hereby amended by striking out subsection (c)(xii), as appearing in the 2020 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

113 supports or other psychosocial parental skill building therapies or services, and accommodations
114 that allow a parent with a disability to benefit from other services, such as braille text or sign
115 language interpreters.

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

122 If the court considers a parent’s disability or its manifestations as a negative factor in
123 determining whether to terminate parental rights, then the court shall make specific written
124 findings as to the nexus between the parent’s disability, or its manifestations, and harm to the
125 child, the impact this has on current parental fitness, and whether adaptive parenting equipment
126 or supportive parenting services can alleviate said harm or render the parent fit; provided further,
127 the court shall dismiss the department’s petition under this section if the court finds that the
128 department acted in violation of this subsection of section 3, or 42 U.S.C. 12132 or 29 U.S.C.
129 794.

130 SECTION 9. Section 5-101 of chapter 190B, as appearing in the 2020 Official Edition of
131 the General Laws, is hereby amended by inserting before the first paragraph the following
132 paragraph:-

133 “Adaptive parenting equipment”, includes any piece of equipment or any item used to
134 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

157 be prevented or alleviated by accommodations for the disability, including adaptive parenting
158 equipment or supportive parenting services.

159 If the court considers a parent's disability or its manifestations as a negative factor in a
160 determination of whether to appoint a temporary or permanent guardian for a minor child, then
161 the court shall make specific written findings as to the nexus between the parent's disability, or
162 its manifestations, and harm to the child, the impact this has on current parental fitness, and
163 whether adaptive parenting equipment or supportive parenting services can alleviate said harm or
164 render the parent fit.