

HOUSE No. 121

The Commonwealth of Massachusetts

PRESENTED BY:

Denise Provost

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 affirming inclusion of individuals with disabilities within civil rights protections and nondiscrimination provisions in the Commonwealth of Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>

HOUSE No. 121

By Ms. Provost of Somerville, a petition (accompanied by bill, House, No. 121) of Denise Provost and others for the inclusion of individuals with disabilities within civil rights protections and nondiscrimination protections and for an investigation by a special commission (including members of the General Court) of the status of individuals and families with disabilities . Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 144 OF 2013-2014.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**
—————

An Act affirming inclusion of individuals with disabilities within civil rights protections and nondiscrimination provisions in the Commonwealth of Massachusetts.

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. Section 15F of chapter 6 of the General Laws, as so appearing, is hereby
2 amended by striking out, in line 2, the words “handicapped persons” and inserting in place
3 thereof the following words:- people with disabilities.

4 SECTION 2. Section 56 of said chapter 6, as so appearing, is hereby amended by striking
5 out, in line 44, the words “handicapped persons” and inserting in place thereof the following
6 words:- people with disabilities.

7 SECTION 3. Section 74 of said chapter 6, as so appearing, is hereby amended by striking
8 out, in line 6, and in lines 8 and 9, the words “individuals” and inserting in place thereof the

9 phrase “people with disabilities” and by striking out in line 6 the phrase “individuals with
10 handicaps” and inserting in place thereof the following words:- people with disabilities

11 SECTION 4. Section 76 of said chapter 6, as so appearing, is hereby amended by striking
12 out, in line 5, the word “individuals with handicaps” and inserting in place thereof the following
13 word:- people with disabilities.

14 SECTION 5. Section 77 of said chapter 6, as so appearing, is hereby amended by striking
15 out, in lines 4, 18, 33 and 55, the words “handicapped individual” and inserting in place thereof
16 the following words:- person with a disability.

17 SECTION 6. Said section 77 of said chapter 6, as so appearing, is hereby further
18 amended by striking out the words, in line 16, “handicapped individual’s” and inserting in place
19 thereof the following words:- person with a disability’s.

20 SECTION 7. Said section 77 of said chapter 6, as so appearing, is hereby further
21 amended by striking out, in lines 24, and in line 35 to 36, the words “handicapped individuals”
22 inclusive and inserting in place thereof the following words:- people with disabilities.

23 SECTION 8. Said section 77 of said chapter 6, as so appearing, is hereby further
24 amended by striking out, in line 42, the word “handicapped” and inserting in place thereof the
25 following word:- people with disabilities.

26 SECTION 9. Said section 77 of said chapter 6, as so appearing, is hereby further
27 amended by striking out, in line 46, the words “Handicapped person” and inserting in place
28 thereof the following words:- Person with a disability.

29 SECTION 10. Section 78 of said chapter 6, as so appearing, is hereby amended by
30 striking out, in lines 3 and 21, the words “handicapped individual” and inserting in place thereof
31 the following words:- person with a disability.

32 SECTION 11. Said section 78 of said chapter 6, as so appearing, is hereby further
33 amended by striking out, in lines 8, 14 and 15, the words “handicapped individuals” and
34 inserting in place thereof the following words:- people with disabilities.

35 SECTION 12. Section 78A of said chapter 6, as so appearing, is hereby amended by
36 striking out, in lines 2 and 3 and in lines 12 and 13, the words “handicapped persons” and
37 inserting in place thereof the following words:- people with disabilities.

38 SECTION 13. Section 79 of said chapter 6, as so appearing, is hereby amended by
39 striking out, in lines 18 and 25, the words “handicapped individuals” and inserting in place
40 thereof the following words:- people with disabilities.

41 SECTION 14. Said section 79 of said chapter 6, as so appearing, is hereby further
42 amended by striking out, in line 23, the words “handicapped persons” and inserting in place
43 thereof the following words:- a person with a disability.

44 SECTION 15. Said section 79 of said chapter 6, as so appearing, is hereby further
45 amended by striking out, in line 26, the words “handicapped individual” and inserting in place
46 thereof the following words:- a person with a disability.

47 SECTION 16. Section 81 of said chapter 6, as so appearing, is hereby amended by
48 striking out, in lines 18, 23, 25 and 26, the words “handicapped individuals” and inserting in
49 place thereof the following words:- a person with a disability.

50 SECTION 17. Section 84 of said chapter 6, as so appearing, is hereby amended by
51 striking out, in lines 22 to 23, inclusive, the words “handicapped person” and inserting in place
52 thereof the following words:- person with a disability.

53 SECTION 18. Section 143 of said chapter 6, as so appearing, is hereby amended by
54 striking out, in line 11, the words “handicapped persons” and inserting in place thereof the
55 following words:- a person with a disability.

56 SECTION 19. Section 191 of said chapter 6, as so appearing, is hereby amended by
57 striking out, in lines 5 and 16 all the words following the word:- conditions.

58 SECTION 20. Section 58 of chapter 7 of the General Laws, as so appearing, is hereby
59 amended in the definition of “Minority business enterprise,” by inserting after the word, “racial”,
60 in line 13, the following word:- disability .

61 SECTION 21. Section 27 of chapter 7C of the General Laws, as so appearing, is hereby
62 amended by striking out, in line 12, the word “handicapped” and inserting in place thereof the
63 word:- disability.

64 SECTION 22. Section 9 of chapter 8 of the General Laws, as so appearing, is hereby
65 amended by striking out, in line 27, the word “handicapped” and inserting in place thereof the
66 following words:- disabled.

67 SECTION 23. Section 38 of chapter 10 of the General Laws, as so appearing, is hereby
68 amended by striking out, in lines 128 and 129, the words “handicapped person” and inserting in
69 place thereof the following words:- person with a disability.

70 SECTION 24. Section 15B of chapter 15 of the General Laws, as so appearing, is hereby
71 amended by striking out, in line 4, the words “visually-handicapped children” and inserting in
72 place thereof the following words:- children with visual impairments .

73 SECTION 25. Section 3 of chapter 15D of the General Laws, as so appearing, is hereby
74 amended by inserting after the word, “regions”, in line 39, the following words:- special needs.

75 SECTION 26. Said section 3 of said chapter 15D, as so appearing, is hereby further
76 amended by inserting after the word “ethnic”, in line 39, the following word:- , disability.

77 SECTION 27. Clause (9) of section 5 of chapter 15D of the General Laws, as so
78 appearing, is hereby amended by striking out, in line 52, the words “and cultural” and inserting
79 in place thereof the following words:- , cultural and disability.

80 SECTION 28. Section 2 of chapter 18 of the General Laws, as so appearing, is hereby
81 amended by striking out, in line 78, the word “handicapped” and inserting in place thereof the
82 following words:- people with disabilities.

83 SECTION 29. Section 5 of said chapter 18, as so appearing, is hereby amended by
84 striking out, in line 16, the words “handicapped resident” and inserting in place thereof the
85 following words:- person with a disability who is a resident.

86 SECTION 30. Section 4 of chapter 19A of the General Laws, as so appearing, is hereby
87 amended by striking out, in lines 7 and 8, the words “the adult handicapped” and inserting in
88 place thereof the following words:- people with disabilities.

89 SECTION 31. Section 16 of chapter 19D of the General Laws, as so appearing, is hereby
90 amended by striking out, in line 4, the word “handicapped”.

91 SECTION 32. Section 13A of chapter 22 of the General Laws, as so appearing, is hereby
92 amended by striking out, in lines 10, 38, 44, 45, 46 and 47, inclusive, 74, 95, 101, 108, 116, 164,
93 166, 173, 185, and 188, in each instance, the word “handicapped” and inserting in place thereof
94 the following word:- “disabled”.

95 SECTION 33. Section 3 of chapter 23B of the General Laws, as so appearing, is hereby
96 amended by striking out, in line 47, the words “the handicapped” and inserting in place thereof
97 the following words: people with disabilities.

98 SECTION 34. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby
99 amended by striking out, in line 12, the word “handicap” and inserting in place thereof the
100 following word:- “disability”.

101 SECTION 35. Section 6 of chapter 23H of the General Laws, as so appearing, is hereby
102 amended by striking out, in line XX, the word “handicapped persons” and inserting in place
103 thereof the following words:- people with disabilities.

104 SECTION 36. Section 1 of chapter 31 of the General Laws, as so appearing, is hereby
105 amended by striking out, in lines 18 and 74, in each instance, the word “handicap” and inserting
106 in place thereof the following word:- disability.

107 SECTION 37. Section 5 of said chapter 31, as so appearing, is hereby amended by
108 striking out, in lines 27 and 30, in each instance, the word “handicap” and inserting in place
109 thereof the following word:- disabled.

110 SECTION 38. Section 16 of said chapter 31, as so appearing, is hereby amended by
111 striking out, in line 9, the words “handicapped person” and inserting in place thereof the
112 following words:- person with a disability.

113 SECTION 39. Said section 16 of said chapter 31, as so appearing is hereby further
114 amended by striking out the fourth sentence and inserting in place thereof the following
115 sentence:- Upon the application of a person with a disability to take an examination for any
116 position, the administrator, upon written request of such person, shall make reasonable
117 accommodations as will enable such person with a disability to take the examination.

118 SECTION 40. Section 47A of said chapter 31, as so appearing, is hereby amended by
119 striking out, in line 46, the word “handicapped” and inserting in place thereof the following
120 word:- disabled.

121 SECTION 41. Section 63 of said chapter 31, as so appearing, is hereby amended by
122 striking out, in line 24, the word “handicapping” and inserting in place thereof the following
123 word:- disabling.

124 SECTION 42. Section 1 of chapter 31A of the General Laws, as so appearing, is hereby
125 amended by striking out, in line 22, the word “handicap” and inserting in place thereof the
126 following word:- disability.

127 SECTION 43. Section 23 of chapter 32 of the General Laws, as so appearing is hereby
128 amended by striking out, in line 400, the word “handicap” and inserting in place thereof the
129 following word:- disability.

130 SECTION 44. Section 2 of chapter 32A of the General Laws, as so appearing, is hereby
131 amended by striking out in line 65, the word “handicapped”.

132 SECTION 45. Section 14B of chapter 34 of the General Laws, as so appearing, is hereby
133 amended by striking out, in line 3, the words “handicapped person” and inserting in place thereof
134 the following words:- person with a disability.

135 SECTION 46. Said section 14B of said chapter 34, as so appearing, is hereby further
136 amended, by striking out, in line 4, the words “handicapped persons” and inserting in place
137 thereof the following words:- people with disabilities.

138 SECTION 47. Said section 14B of said chapter 34, as so appearing, is hereby further
139 amended, by striking out, in line 8, the words “the handicapped” and inserting in place thereof
140 the following words:- people with disabilities.

141 SECTION 48. Paragraph (23) of section 21 of chapter 40 of the General Laws, as so
142 appearing, is hereby amended by striking out, in lines 131, 133, and 136, in each instance, the
143 word “handicapped” and inserting in place thereof the word:- disabled .

144 SECTION 49. Clause (a) of paragraph (23) of section 21 of said chapter 40, as so
145 appearing, is hereby amended by striking out, in lines 145, 147 and 150, in each instance, the
146 word “handicapped” and inserting in place thereof the following word:- disabled .

147 SECTION 50. Clause (b) of paragraph (23) of section 21 of said chapter 40, as so
148 appearing, is hereby amended by striking out, in line 168, the word “Handicapped” and inserting
149 in place thereof the following word:- Accessible.

150 SECTION 51. Said section 21 of said chapter 40, as so appearing is hereby further
151 amended by striking out, in line 172, the words “handicapped person” and inserting in place
152 thereof the following words: person with a disability.

153 SECTION 52. Said section 21 of said chapter 40, as so appearing, is hereby further
154 amended by striking out, in line 188, the word “handicapped person” and inserting in place
155 thereof the following words:- person with a disability.

156 SECTION 53. Section 1E of chapter 69 of the General Laws, as so appearing, is hereby
157 amended by striking out, in lines 28 and 29, inclusive, the words “gender, cultural, ethnic or
158 racial stereotypes” and inserting in place thereof the following words: stereotypes based on
159 gender, culture, ethnicity, disability and age.

160 SECTION 54. The second paragraph of said section 1E of said chapter 69, as so
161 appearing, is hereby further amended, by striking out the second sentence and inserting in place
162 thereof the following sentence:- The frameworks shall reflect sensitivity to the variety of
163 learning styles and diverse methods of learning.

164 SECTION 55. Clause (K) of section 87AAA of chapter 112 of the General Laws, as so
165 appearing, is hereby amended by inserting after the word “origin”, in line 29, the following
166 words:- age, sexual orientation, gender identity, or persons with disabilities.

167 SECTION 56. Section 1 of chapter 121B, of the General Laws, as so appearing, is hereby
168 amended by striking out the definition for “Handicapped persons of low income”, and inserting
169 in place thereof the following definition:-

170 “Disabled persons with low income”, persons whose annual net income is less than the
171 amount necessary to enable them to maintain decent, safe and sanitary housing, as defined by 24
172 CFR 9.103.

173 SECTION 57. Section 32 of said chapter 121B, as so appearing, is hereby amended by
174 striking out, in line 110, the words “or physical handicap”, and inserting in place thereof the
175 following words:- disability, sexual orientation or gender identity.

176 SECTION 58. Said section 32 of said chapter 121B, as so appearing, is hereby further
177 amended, by inserting after the word “sanitary”, in line 135, the following words:- and
178 architectural access.

179 SECTION 59. The title of chapter 151B of the General Laws, as so appearing, is hereby
180 amended by striking out the words “OR SEX” and inserting in place thereof the following
181 words:- , SEX OR DISABILITY.

182 SECTION 60. Section 1 of chapter 151B of the General Laws, as so appearing, is hereby
183 amended by striking out, in paragraph 16, the definition of “qualified handicapped person” and
184 inserting in its place the following definition:-

185 The term “qualified person with a disability” means a person with a disability who is
186 capable of performing the essential functions of a particular job with or without reasonable
187 accommodations.

188 SECTION 61. Said section 1 of said chapter 151B, as so appearing, is hereby amended
189 by striking out, in paragraph 17, the definition for “handicap” and inserting in place thereof the
190 following definition:-

191 The term "disability" means a physical or mental impairment that substantially limits 1 or
192 more major life activities without regard to the ameliorative effects of mitigating measures which
193 do not include ordinary eyeglasses or contact lenses. "Handicap" shall mean the same as
194 "disability."

195 SECTION 62. Said section 1 of said chapter 151B, as so appearing, is hereby amended
196 by striking out, in paragraph 19, the definition for "handicapped person" and inserting in place
197 thereof the following definition:-

198 The term "person with a disability" means a person who has a physical or mental
199 impairment that substantially limits 1 or more major life activities without regard to the
200 ameliorative effects of mitigating measures which do not include ordinary eyeglasses or contact
201 lenses , a record of such impairment, or is regarded as having such impairment.

202 SECTION 63. Said section 1 of said chapter 151B, as so appearing, is hereby amended
203 by adding after the definition of "genetic test", in paragraph 23, the following definition:-

204 24. The term "accessible dwelling unit", means an adaptable or accessible unit that is on
205 an accessible route and otherwise in compliance with the standards set forth in 521 CMR 1.00
206 through 47.00, inclusive, and all other applicable rules and regulations.

207

208 SECTION 64. Section 3 of said chapter 151B, as so appearing, is hereby amended by
209 striking out the word "handicap", in line 21, and inserting in place thereof the following word:-
210 disability.

211 SECTION 65. Said section 3 of said chapter 151B, as so appearing, is hereby further
212 amended by striking out, in line 22, the words “handicapped person” and inserting in place
213 thereof the following words:- person with a disability.

214 SECTION 66. Said section 3 of said chapter 151, as so appearing, is hereby further
215 amended by striking out, in line 54, the words “handicapped persons” and inserting in place
216 thereof the following words:- persons with disabilities.

217 SECTION 67. Said section 3 of said chapter 151, as so appearing, is hereby further
218 amended by inserting after the word “ancestry”, in line 63, the following words:- or disability.

219 SECTION 68. Said section 3 of said chapter 151, as so appearing, is hereby further
220 amended by inserting after the word “level”, in line 82, the following words:- or disability.

221 SECTION 69. Section 4 of said chapter 151B, as so appearing, is hereby amended by
222 striking out in lines 85 and 89, in each instance, the words “the handicap of a qualified
223 handicapped person” and inserting in place thereof the following words:- disability of a qualified
224 disabled person.

225 SECTION 70. Said section 4 of said chapter 151B, as so appearing, is hereby amended
226 by striking out, in lines 106 and 139, the word “handicap” and inserting in place thereof the
227 following word:- disability.

228 SECTION 71. Said section 4 of said chapter 151B, as so appearing, is hereby further
229 amended by striking out, in lines 167 to 168, lines 173 to 174, and in lines 184 to 185, inclusive,
230 the words “blind, or hearing impaired or has any other handicap” and inserting in their place the
231 following words:- a person with a disability.

232 SECTION 72. Said section 4 of said chapter 151B, as so appearing, is hereby further
233 amended by striking out, in lines 176 to 177, 231 to 232, 239 to 240, and in lines 248 to 250,
234 inclusive, the words “possesses a trained dog guide as a consequence of blindness or hearing
235 impairment” and inserting in place thereof the following words:- utilizes a service animal as a
236 consequence of a disability.

237 SECTION 73. Said section 4 of said chapter 151B, as so appearing, is hereby further
238 amended by striking out in lines 230 to 231, inclusive, line 238 and 247 to 248, inclusive, the
239 words “blindness, or hearing impairment or other handicap” and inserting in place thereof the
240 following words:- or because such person is a person with a disability.

241

242 SECTION 74. Subsection 7A of said section 4 of said chapter 151B, as so appearing, is
243 hereby amended by striking out, in line 267, the word “handicap” and inserting in place thereof
244 the following word:- disability.

245 SECTION 75. Said subsection 7A of said chapter 151B, as so appearing, is hereby
246 further amended by striking out, in line 268 to 269, inclusive, the words “handicapped person”
247 and inserting in place thereof the following words:- person with a disability.

248 SECTION 76. Said subsection 7A of said chapter 151B, as so appearing, is hereby
249 further amended by inserting after the word “enjoyment”, in line 271, the following words:- and
250 equal use.

251 SECTION 77. Said subsection 7A of said chapter 151B, as so appearing, is hereby
252 further amended by striking out, in line 279, the words “handicapped person” and inserting in
253 place thereof the following words:- tenant.

254 SECTION 78. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,
255 is hereby further amended by striking out, in lines 286 to 287, inclusive, the words “handicapped
256 person equal opportunity to use and enjoy a dwelling” and inserting in place thereof the
257 following words:- person with a disability equal opportunity to use all elements of a dwelling
258 including common areas.

259 SECTION 79. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,
260 is hereby amended by inserting after the word “for”, in line 289, the following words:- an
261 accessible dwelling unit, including through.

262 SECTION 80. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,
263 is hereby further amended by inserting after the word “cabinet”, in line 294, the following
264 words:- ensuring the entrance is on an accessible route.

265 SECTION 81. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,
266 is hereby further amended by inserting after the word “lift”, in line 299, the following words:- ,
267 unless the request for modifications is in connection with a building that has 3 or more units and
268 was constructed for first occupancy after March 13, 1991.

269 SECTION 82. The third paragraph of said subsection 7A of said section 4 of said chapter
270 151B, as so appearing, is hereby further amended by adding the following 2 sentences:- The
271 owner shall bear the burden of proving undue hardship. Notwithstanding any other provisions of
272 this subsection, an accommodation or modification which is paid for by the owner or other

273 person having the right of ownership is considered reasonable if it is requested by a person with
274 a disability to afford such person full enjoyment and equal use of the premises; and if such
275 architectural or communications features were otherwise mandated by Federal and State
276 architectural accessibility code at the time of construction or rehabilitation.

277 SECTION 83. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,
278 is hereby further amended by striking out, in line 318, the words “a wheelchair accessible unit”
279 and inserting in place thereof the following words:- an accessible dwelling unit.

280 SECTION 84. Said subsection 7A of said section 4 of said chapter 151B, as so appearing,
281 is hereby further amended by striking out, in line 332, the words “handicap-accessible” and
282 inserting in place thereof the following words:- accessible or adaptable.

283 SECTION 85. Subsection 7B of said section 4 of said chapter 151B, as so appearing, is
284 hereby amended by striking out, in line 343, the word “handicap”, and inserting in place thereof
285 the following word:- disability.

286 SECTION 86. Subsection 8 of said section 4 of said chapter 151B, as so appearing, is
287 hereby amended by striking out, in lines 353, 358, and 364, the word “handicap” and inserting in
288 place thereof the following word:- disability.

289 SECTION 87. Said section 4 of said chapter 151B, as so appearing, is hereby amended
290 by striking out subsection 9A and inserting in place thereof the following subsection:-

291 9A. For an employer or an employer’s agent to refuse, unless based upon a bonafide
292 occupational qualification, to hire or employ or to bar or discharge from employment any person
293 by reason of his or her failure to furnish information regarding his or her admission, on 1 or more

294 occasions, voluntarily or involuntarily, to any public or private facility for the care and treatment
295 of mentally ill persons, provided that such person can prove that he is mentally competent to
296 perform the job or the job for which he is applying. No application for employment shall contain
297 any questions or requests for information regarding the admission of an applicant, on 1 or more
298 occasions, voluntarily or involuntarily, to any public or private facility for the care and treatment
299 of mentally ill persons.

300 SECTION 88. Clause (b) of subsection 13 of said section 4 of said chapter 151B, as so
301 appearing, is hereby amended by striking out, in line 498, the words “handicapped person” and
302 inserting in place thereof the following words:- person with a disability.

303 SECTION 89. Said section 4 of said chapter 151B, as so appearing is hereby amended
304 by striking out subsection 16 and inserting in place thereof the following subsection:

305 16. For any employer, personally or through an agent, to dismiss from employment or
306 refuse to hire, rehire or advance in employment or otherwise discriminate against, because of a
307 disability or record or perception of a disability, any person alleging to be a person with a
308 disability, capable of performing the essential functions of the position involved, with or without
309 reasonable accommodation, unless the employer can demonstrate that the accommodation
310 required for the person to perform the essential functions of the position would impose an undue
311 hardship to the employer’s business.

312 For purposes of this subsection, the following terms, unless the context clearly requires
313 otherwise, shall have the following meanings:-

314 “Employer”, shall include an agency which employs individuals directly for the purpose
315 of furnishing part-time or temporary help to others.

316 “Illegal use of drugs ”, shall include the use of drugs, the possession or distribution of
317 which is unlawful under the Controlled Substances Act, 21 U.S.C. 801; provided, however, that
318 such term shall not include the use of a drug taken under supervision by a licensed health care
319 professional or the medical use of marijuana taken pursuant to chapter 369 of the acts of 2012.

320 “Reasonable accommodation”, may include:- (i) making existing facilities used by
321 employees readily accessible to and useable by persons with disabilities; (ii) job restructuring,
322 part-time or modified work schedules; (iii) reassignment to a vacant position; (iv) acquisition or
323 modification of equipment or devices; (v) appropriate adjustment or modifications of
324 examinations, training materials or policies, (vi) the provision of auxiliary aides or services; and
325 (vii) other similar accommodations.

326 In determining whether an accommodation would impose an undue hardship on the
327 conduct of the employer’s business, factors to be considered shall include:-

328 (1) the overall size of the employer’s business with respect to the number of
329 employees, number and type of facilities, and size of budget or available assets;

330 (2) the type of the employer’s operation, including the composition and structure of
331 the employer’s workforce;

332 (3) the nature and cost of the accommodation needed; and

333 (4) the overall financial resources of the facility or facilities involved in the provision
334 of the accommodation, the effect on such resources, or other impact to operations.

335 Physical or mental job qualification requirements with respect to hiring, job application
336 procedures, promotion, demotion or dismissal from employment or any other change in

337 employment status or responsibilities shall be functionally related to the specific job or jobs for
338 which the person is being considered and shall be consistent with the safe and lawful
339 performance of the job.

340 A qualified disabled person shall not include any employee or applicant who is currently
341 engaging in the illegal use of drugs. An employer may take adverse employment action on the
342 basis of such use; provided, however, that nothing in this subsection shall be construed to
343 exclude as a qualified disabled person a person who has successfully completed a supervised
344 drug rehabilitation program and is no longer engaging in the illegal use of drugs, or who has
345 otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs; or
346 who is currently participating in a supervised rehabilitation program and is no longer engaging in
347 the illegal use of drugs; or who is erroneously regarded as engaging in such use.

348 An employer may prohibit the illegal use of drugs and the use of alcohol at the workplace
349 by all employees and may also require that employees shall not be under the influence of alcohol
350 or illegal drugs at the workplace. An employer may hold an employee who engages in the illegal
351 use of drugs or who is an alcoholic to the same qualification, job performance and behavior
352 standards that the employer holds other employees, even if any unsatisfactory performance or
353 behavior is related to drug use or alcoholism.

354 An employer may not make preemployment inquiry of an applicant as to whether the
355 applicant is a person with a disability or as to the nature or severity of the disability, except that
356 an employer may condition an offer of employment on the results of a medical examination
357 conducted solely for the purpose of determining whether the employee with reasonable
358 accommodation, is capable of performing the essential functions of the job, and an employer

359 may invite applicants to voluntarily disclose their disability for purposes of assisting the
360 employer in its affirmative action efforts.

361 An employer shall not utilize standards, criteria or methods of administration that have
362 the effect of discrimination on the basis of disability or that perpetuate the discrimination of
363 others against qualified disabled persons.

364 An employer shall not discriminate against an employee or applicant because of the
365 known disability of a person with whom the applicant or employee is known to have a
366 relationship or association.

367 SECTION 90. Said chapter 272, as so appearing, is hereby amended by striking out
368 section 98A and inserting in place thereof the following section:-

369 Section 90A. Notwithstanding any other provision of law, a person with a disability who
370 is accompanied by his or her service animal, shall be entitled to any and all accommodations,
371 advantages, facilities and privileges of all public conveyances, public amusements and places of
372 public accommodation within the commonwealth to which persons not accompanied by service
373 animals are entitled, subject only to the conditions and limitations applicable to all persons not
374 accompanied by service animals. No person with a disability who is accompanied by a service
375 animal when taking public transportation shall be required to pay any additional charge, fee or
376 fare for or on account of his or her service animal. . Whoever deprives a person with a disability
377 of any right conferred by this section shall be punished by a fine of not more than \$300 and shall
378 be liable to any person aggrieved thereby for such damages as are set forth in section 5 of chapter
379 151B; provided, however, that such civic forfeiture shall be of an amount not less than \$100.

380 SECTION 91. Section 98B of said chapter 272, as so appearing, is hereby amended by
381 inserting after the word “religion”, in line 3, the following word:- disability.

382 SECTION 92. Section 66 of chapter 3 of the General Laws, as appearing in the 2012
383 Official Edition , is hereby amended by inserting after the word, “age”, in line 4, the following
384 word:- , disability.

385 SECTION 93. Section 67 of said chapter 3, as so appearing, is hereby further amended by
386 inserting after the word “age”, in line 19, the following word:- , disability.

387 SECTION 94. Said section 1 of said chapter 151B, so appearing, is further amended by
388 adding a new definition, after line 35, as follows:- the term service animals shall mean dogs that
389 are individually trained to do work or perform tasks for people with disabilities.