

SENATE No. 2141

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Thursday, February 25, 2016

The committee on Ways and Means, to whom was referred the Senate Bill relative to the protection of persons with a disability (Senate, No. 81),-- reports, recommending that the same ought to pass with an amendment substituting a new draft entitled “An Act relative to the protection of persons with a disability” (Senate, No. 2141).

For the committee,
Karen E. Spilka

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

An Act updating terminology and investigative practices related to the protection of persons with a disability.

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 1 of chapter 19C of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out, in line 4, the words “disabled person” and
3 inserting in place thereof the following words:- person with a disability.

4 SECTION 2. Said section 1 of said chapter 19C, as so appearing, is hereby further
5 amended by striking out, in line 9, the words “disabled person’s”.

6 SECTION 3. Said section 1 of said chapter 19C, as so appearing, is hereby further
7 amended by striking out, in line 10, the words “a disabled person’s health or welfare” and
8 inserting in place thereof the following words:- the health and welfare of a person with a
9 disability.

10 SECTION 4. Said section 1 of said chapter 19C, as so appearing, is hereby further
11 amended by striking out, in line 11, the words “disabled person” and inserting in place thereof
12 the following words:- person with a disability.

13 SECTION 5. Said section 1 of said chapter 19C, as so appearing, is hereby further
14 amended by striking out the definitions of “Disabled person”, “General counsel” and “Mandated
15 reporter” and inserting in place thereof the following 2 definitions:-

16 “Mandated reporter”, any physician, medical intern, hospital personnel engaged in the
17 examination, care or treatment of persons, medical examiner, dentist, psychologist, nurse,
18 chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator,
19 guidance or family counselor, day care worker, probation officer, social worker, foster parent,
20 police officer, firefighter, paramedic, emergency medical technician or person employed by a
21 state agency as defined by this chapter or employed by a private agency providing services to a
22 person with a disability who, in that person’s professional capacity shall have reasonable cause
23 to believe that a person with a disability is suffering from a reportable condition.

24 “Person with a disability”, a person between the ages of 18 to 59, inclusive, who is a
25 person with an intellectual or developmental disability as defined by section 1 of chapter 123B or
26 who is otherwise mentally or physically disabled and as a result of that mental or physical
27 disability is wholly or partially dependent on others to meet that person’s daily living needs;
28 provided, however, that the term “person with a disability” shall replace the term “disabled
29 person” without changing the meaning.

30 SECTION 6. Said section 1 of said chapter 19C, as so appearing, is hereby further
31 amended by striking out, in lines 38 and 40, the words “disabled person or persons” and inserting
32 in place thereof, in each instance, the following words:- person with a disability.

33 SECTION 7. Said section 1 of said chapter 19C, as so appearing, is hereby further
34 amended by striking out, in line 41, the words “disabled persons” and inserting in place thereof
35 the following words:- persons with a disability.

36 SECTION 8. Said section 1 of said chapter 19C, as so appearing, is hereby further
37 amended by striking out the definition of “State agency” and inserting in place thereof the
38 following definition:-

39 “State agency”, any agency of the commonwealth that provides services or treatment to
40 persons with a disability, including a private entity providing such services or treatment pursuant
41 to a contract, license or agreement with an agency of the commonwealth.

42 SECTION 9. Section 2 of said chapter 19C, as so appearing, is hereby amended by
43 striking out, in line 2, the first time it appears, and in line 5, the words “disabled persons” and
44 inserting in place thereof, in each instance, the following words:- persons with a disability.

45 SECTION 10. Section 3 of said chapter 19C, as so appearing, is hereby amended by
46 striking out, in lines 20 and 21, the words “disabled persons” and inserting in place thereof the
47 following words:- persons with a disability.

48 SECTION 11. Said section 3 of said chapter 19C, as so appearing, is hereby further
49 amended by striking out, in line 22, the word “other”.

50 SECTION 12. Said section 3 of said chapter 19C, as so appearing, is hereby further
51 amended by striking out, in lines 28 and 29, the words “disabled persons” and inserting in place
52 thereof the following words:- persons with a disability.

53 SECTION 13. Said section 3 of said chapter 19C, as so appearing, is hereby further
54 amended by striking out, in line 32, the words “sixty-six and sixty-six A;” and inserting in place
55 thereof the following words:- 66 and 66A; except as otherwise provided in this chapter, all
56 records containing personal data which are created, collected, used, maintained or disseminated
57 pursuant to this chapter shall not be public records and shall be governed by chapter 66A.

58 SECTION 14. Section 4 of said chapter 19C, as so appearing, is hereby amended by
59 striking out, in line 1, the words “disabled person” and inserting in place thereof the following
60 words:- person with a disability, and subject to the commission’s authority to conduct its own
61 investigation.

62 SECTION 15. Said section 4 of said chapter 19C, as so appearing, is hereby further
63 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

64 (b) For the purpose of providing protective services, immediately refer any such reports,
65 which allege the existence of an imminent risk of serious injury to any person with a disability or
66 which allege the occurrence of abuse of a person with a disability whose caretaker is a state
67 agency, to the department within the executive office of health and human services which has
68 jurisdiction over the disability manifested by the person with a disability. As determined and
69 assigned by the commission, either the commission or that agency, subject to the oversight of the
70 commission, shall investigate such abuse as provided in section 5. In a case where a commission
71 investigation is being conducted, the state agency shall take reasonable steps to avoid
72 unnecessary, unwarranted or counterproductive duplication between an internal investigation or
73 inquiry by the agency and the commission’s investigation, by utilizing the commission’s
74 investigation in lieu of an internal investigation conducted by the agency.

75 SECTION 16. Subsection (c) of said section 4 of said chapter 19C, as so appearing, is
76 hereby further amended by striking out the first paragraph and inserting in place thereof the
77 following paragraph:-

78 For the purpose of providing protective services, immediately refer any such reports
79 which allege the existence of imminent risk of serious injury to any person with a disability or
80 which allege the occurrence of abuse of a person with a disability whose caretaker is not a state
81 agency, to the department within the executive office of health and human services which the
82 commission determines, based on the person's disability, would most likely either provide
83 services or treatment to the person with a disability or license an entity to provide or contract
84 with or enter into an agreement to provide services or treatment to the person with a disability.
85 As determined and assigned by the commission, either the commission or the agency, subject to
86 the oversight of the commission, shall investigate such abuse as provided in section 5.

87 SECTION 17. Said section 4 of said chapter 19C, as so appearing, is hereby further
88 amended by striking out, in line 35, the words "disabled person" and inserting in place thereof
89 the following words:- person with a disability.

90 SECTION 18. Said section 4 of said chapter 19C, as so appearing, is hereby further
91 amended by striking out, in line 42, the word "commissioners" and inserting in place thereof the
92 following word:- commission.

93 SECTION 19. Said section 4 of said chapter 19C, as so appearing, is hereby further
94 amended by inserting after the word "of", in line 56, the third time it appears, the following
95 words:- licensed or.

96 SECTION 20. Said section 4 of said chapter 19C, as so appearing, is hereby further
97 amended by striking out, in line 58, the word “department’s” and inserting in place thereof the
98 following word:- agency’s.

99 SECTION 21. Section 5 of said chapter 19C, as so appearing, is hereby amended by
100 striking out, in line 1, the words “disabled person” and inserting in place thereof the following
101 words:- person with a disability.

102 SECTION 22. Said section 5 of said chapter 19C, as so appearing, is hereby further
103 amended by inserting after the word “designated”, in line 2, the following words:- and assigned.

104 SECTION 23. Said section 5 of said chapter 19C, as so appearing, is hereby further
105 amended by striking out, in lines 2 to 4, inclusive, the words “ , the general counsel, or a
106 department within the executive office of health and human services”.

107 SECTION 24. Said section 5 of said chapter 19C, as so appearing, is hereby further
108 amended by striking out, in lines 7 and 8, the words “counsel or department of mental health or
109 department of public health” and inserting in place thereof the following words:- department of
110 mental health, department of developmental services or the Massachusetts rehabilitation
111 commission.

112 SECTION 25. Said section 5 of said chapter 19C, as so appearing, is hereby further
113 amended by striking out, in line 9, the words “disabled person’s health or safety” and inserting in
114 place thereof the following words:- health or safety of a person with a disability.

115 SECTION 26. Said section 5 of said chapter 19C, as so appearing, is hereby further
116 amended by striking out, in line 12, the words “disabled person’s residence and day program”

117 and inserting in place thereof the following words:- residence and day program of a person with
118 a disability.

119 SECTION 27. Said section 5 of said chapter 19C, as so appearing, is hereby further
120 amended by striking out, in line 13, the words “disabled person” and inserting in place thereof
121 the following words:- person with a disability.

122 SECTION 28. Said section 5 of said chapter 19C, as so appearing, is hereby further
123 amended by striking out, in lines 17 to 19, inclusive, the words “to the general counsel and to the
124 department of mental health and the department of public health” and inserting in place thereof
125 the following words:- and to the department of mental health, department of developmental
126 services or the Massachusetts rehabilitation commission, as appropriate.

127 SECTION 29. Said section 5 of said chapter 19C, as so appearing, is hereby further
128 amended by striking out, in line 33, the words “disabled person” and inserting in place thereof
129 the following words:- person with a disability.

130 SECTION 30. Said section 5 of said chapter 19C, as so appearing, is hereby further
131 amended by striking out, in lines 46 and 47, the words “the general counsel, the department of
132 mental health and the department of public health” and inserting in place thereof the following
133 words:- and to the department of mental health, department of developmental services or the
134 Massachusetts rehabilitation commission, as appropriate,.

135 SECTION 31. Said section 5 of said chapter 19C, as so appearing, is hereby further
136 amended by striking out, in line 50, the words “disabled person” and inserting in place thereof
137 the following words:- person with a disability.

138 SECTION 32. Said section 5 of said chapter 19C, as so appearing, is hereby further
139 amended by striking out, in line 52, the words “, the general counsel”.

140 SECTION 33. Said section 5 of said chapter 19C, as so appearing, is hereby further
141 amended by striking out, in lines 63, 73, 75, 77 and 78, the words “disabled person” and
142 inserting in place thereof, in each instance, the following words:- person with a disability.

143 SECTION 34. Section 6 of said chapter 19C, as so appearing, is hereby amended by
144 striking out the first paragraph and inserting in place thereof the following paragraph:-

145 The commission, acting through state agencies within the executive office of health and
146 human services designated by the commission for the purpose of providing protective services to
147 prevent further abuse in cases investigated pursuant to this chapter and subject to the oversight of
148 the commission, shall:-

149 SECTION 35. Said section 6 of said chapter 19C, as so appearing, is hereby further
150 amended by striking out, in lines 10 and 15, the words “disabled person” and inserting in place
151 thereof, in each instance, the following words:- person with a disability.

152 SECTION 36. Section 7 of said chapter 19C, as so appearing, is hereby amended by
153 striking out, in lines 1 and 2, the words “the general counsel, the department of mental health or
154 the department of public health,” and inserting in place thereof the following words:- the
155 department of mental health, the department of developmental services or the Massachusetts
156 rehabilitation commission.

157 SECTION 37. Said section 7 of said chapter 19C, as so appearing, is hereby further
158 amended by striking out, in line 4, the words “disabled person” and inserting in place thereof the
159 following words:- person with a disability.

160 SECTION 38. Said section 7 of said chapter 19C, as so appearing, is hereby further
161 amended by striking out, in lines 5 and 6, the words “, counsel or department” and inserting in
162 place thereof the following words:- or agency.

163 SECTION 39. Said section 7 of said chapter 19C, as so appearing, is hereby further
164 amended by striking out, in lines 6 and 7, the words “disabled person” and inserting in place
165 thereof the following words:- person with a disability.

166 SECTION 40. Said section 7 of said chapter 19C, as so appearing, is hereby further
167 amended by striking out, in line 9, the words “, counsel or department” and inserting in place
168 thereof the following words:- or agency.

169 SECTION 41. Said section 7 of said chapter 19C, as so appearing, is hereby further
170 amended by striking out, in lines 12, 13, 18, 20, 21, 22, 29, the words “disabled person” and
171 inserting in place thereof, in each instance, the following words:- person with a disability.

172 SECTION 42. Said section 7 of said chapter 19C, as so appearing, is hereby further
173 amended by striking out, in lines 33 and 34, the words “, counsel or department” and inserting in
174 place thereof the following words:- or agency.

175 SECTION 43. Said section 7 of said chapter 19C, as so appearing, is hereby further
176 amended by striking out, in line 35, the words “disabled person” and inserting in place thereof
177 the following words:- person with a disability.

178 SECTION 44. Said section 7 of said chapter 19C, as so appearing, is hereby further
179 amended by striking out, in line 37, the words “, counsel or department” and inserting in place
180 thereof the following words:- or agency.

181 SECTION 45. Said section 7 of said chapter 19C, as so appearing, is hereby further
182 amended by striking out, in lines 39 and 40, 46, 47 and 48, 59 and 61, the words “disabled
183 person” and inserting in place thereof, in each instance, the following words:- person with a
184 disability.

185 SECTION 46. Said section 7 of said chapter 19C, as so appearing, is hereby further
186 amended by striking out, in line 62, the words “, counsel or department” and inserting in place
187 thereof the following words:- or agency.

188 SECTION 47. Said section 7 of said chapter 19C, as so appearing, is hereby further
189 amended by striking out, in lines 65, 67 and 68, the words “disabled person” and inserting in
190 place thereof, in each instance, the following words:- person with a disability.

191 SECTION 48. Section 8 of said chapter 19C, as so appearing, is hereby amended by
192 striking out, in line 2, the words “disabled person” and inserting in place thereof the following
193 words:- person with a disability.

194 SECTION 49. Said section 8 of said chapter 19C, as so appearing, is hereby further
195 amended by striking out, in line 6, the words “disabled persons” and inserting in place thereof
196 the following words:- persons with a disability.

197 SECTION 50. Section 10 of said chapter 19C, as so appearing, is hereby amended by
198 striking out, in lines 7, 13, 19 and 29, the words “disabled person” and inserting in place thereof,
199 in each instance, the following words:- person with a disability.

200 SECTION 51. Section 11 of said chapter 19C, as so appearing, is hereby amended by
201 striking out, in line 6, the words “, the general counsel”.

202 SECTION 52. Said section 11 of said chapter 19C, as so appearing, is hereby further
203 amended by striking out, in line 9, the words “disabled person” and inserting in place thereof the
204 following words:- person with a disability.

205 SECTION 53. Section 13 of said chapter 19C, as so appearing, is hereby amended by
206 striking out, in line 1, the words “disabled person” and inserting in place thereof the following
207 words:- person with a disability.

208 SECTION 54. Said section 13 of chapter 19C, as so appearing, is hereby further amended
209 by inserting after the word “with”, in line 3, the following words: - or licensed by.

210 SECTION 55. Said section 13 of said chapter 19C, as so appearing, is hereby further
211 amended by striking out, in line 8, the words “disabled person” and inserting in place thereof the
212 following words:- person with a disability.