

HOUSE No. 87

The Commonwealth of Massachusetts

PRESENTED BY:

Mark J. Cusack

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 passage of the accompanying:

An Act to support the transition to adult services for persons with disabilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>

<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Kevin J. Murphy</i>	<i>18th Middlesex</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Robert F. Fennell</i>	<i>10th Essex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>

HOUSE No. 87

By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 87) of Mark J. Cusack and others for legislation to support the transition to adult services for persons with disabilities. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to support the transition to adult services for persons with disabilities.

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: The definition of “Disabled person” in Section 12A of chapter 71B as
2 appearing in the 2008 Official Edition, lines 3 through 9, is hereby amended by striking this
3 paragraph and inserting in place thereof the following paragraph:

4 “Person with a disability”, a person with a physical or mental impairment that results in a
5 substantial impediment to employment, or any individual listed on the registry of the
6 Massachusetts Commission for the Blind.

7 Said Section 12A of chapter 71B as appearing in the 2008 Official Edition is further
8 amended by inserting the following definition:

9 "Substantial impediment to employment" refers to a physical or mental impairment
10 which, in light of attendant medical, psychological, vocational, educational and other related
11 factors impedes an individual's occupational performance by preventing his/her obtaining,
12 retaining, or preparing for employment consistent with his/her capacities and abilities.

13 Said Section 12A of chapter 71B as appearing in the 2008 Official Edition is further
14 amended by striking the definition of “substantial gainful activity.”

15 Said Section 12A is further amended by striking “disabled person” on line 14 within the
16 definition of “Habilitative services” and inserting in place thereof the words –

17 person with a disability

18 Said Section 12A is further amended by striking “disabled person” on line 32 within the
19 definition of “transition plan” and inserting in place thereof the words –

20 person with a disability

21 Section 12B of chapter 71B as appearing in the 2008 Official Edition is amended by
22 striking “disabled persons” on line 26 and inserting in place thereof the words –

23 persons with disabilities

24 Section 12C of chapter 71B as appearing in the 2008 Official Edition is amended by
25 striking “disabled person” on line 1 and inserting in place thereof the words –

26 person with disability

27 Said Section 12C is amended by striking “disabled person” on line 16 and inserting in
28 place thereof the words –

29 person with disability

30 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 29
31 and inserting in place thereof the words –

32 person with disability

33 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 41
34 and inserting in place thereof the words –

35 person with disability

36 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 52
37 and inserting in place thereof the words –

38 person with disability

39 Said Section 12C of chapter 71B as is amended by striking “disabled person” on line
40 60-61 and inserting in place thereof the words –

41 person with disability

42 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 69
43 and inserting in place thereof the words –

44 person with disability

45 Said Section 12C of chapter 71B is amended by striking “disabled person” on line 87
46 and inserting in place thereof the words –

person with a disability

SECTION 2: The definition of “Habilitative services” in Section 12A of chapter 71B as appearing in the 2008 Official Edition is hereby amended inserting a second sentence as follows:

Habilitative services shall also include, when necessary, instruction in independent living skills and functional life skills, independent or supportive housing, preparation for postsecondary education, preparation for individualized and integrated competitive or supported employment, and training in self-advocacy.

SECTION 3: Section 12C of chapter 71B, second paragraph, as appearing in the 2008 Official Edition is hereby amended by adding a third sentence which follows:

When such application is required, the bureau, or such other agency as may be providing a transition plan on its behalf, shall also provide training, assistance or referrals to students, parents and school regarding work incentive programs administered by the Social Security Administration for persons receiving disability benefits.

SECTION 4: Section 2 of chapter 71B as appearing in the 2008 Official Edition is hereby amended by adding the following paragraphs:

Said transition services to be provided by the school shall be closely coordinated with habilitative services provided by the bureau of transition planning of the executive office of health and human services, pursuant to section 12C of chapter 71B. To facilitate this coordination, with the consent of the parents or a child who has reached the age of majority, the child’s school committee, with no less than 21 calendar days’ notice, shall invite to the child’s Individualized Education Plan (IEP) meeting a representative of the bureau of transition planning or any participating adult service agency identified by the bureau that is known by the school to be responsible for services pursuant to 20 U.S.C. §1414(d)(1)(D) or section 12C of chapter 71B. In the event that there is no participating adult service agency known to be responsible for services, the special education director or administrator employed by the school committee, or his or her designee, shall contact the bureau of transition planning before sending this invitation. The bureau shall respond, to the extent practicable, by designating and identifying an adult services agency, or shall attend the IEP meeting on behalf of the executive office of health and human services. Such representative shall attend at least one such IEP meeting for purposes of facilitating transition planning, no later than two years before either the date the student is anticipated to graduate from high school, or turn age twenty-two, whichever date is earlier. By agreement of all participants, an Individualized Transition Plan (ITP) meeting to discuss services to be provided by any designated adult services agency may be held concurrently with Individualized Education Plan (IEP) meeting. The identification of services in an Individualized Transition Plan (ITP), or the provision of other services provided by the bureau of transition planning or an agency acting on its behalf, shall not be deemed to alter any existing obligation of the local educational agency under state or federal law. If a participating agency,

84 other than the local educational agency, fails to provide the transition services described in the
85 IEP, the local educational agency shall reconvene the IEP Team to identify alternative strategies
86 to meet the transition objectives for the child set out in the IEP. When a child is graduating or
87 attaining the age of 22, whichever occurs first, the school shall provide to the student and to the
88 participating agency a summary of the child's academic achievement and functional
89 performance, which shall include recommendations on how to assist the child in meeting the
90 child's postsecondary goals.

91 SECTION 5: Subject to appropriation, notwithstanding other provisions of the General
92 Laws, the Department of Developmental Services shall develop and administer a discretionary
93 demonstration program to provide, as part of a pilot project, services which are parallel in scope
94 to programs of "community intellectual disability services" pursuant to Sections 12 and 13 of
95 the Chapter 19B of the General Laws. This program shall be limited to persons turning 22 (i.e.,
96 ages 20 to 24) with developmental disabilities, including but not limited to persons on the autism
97 spectrum, who currently do not meet the definition of "Person with an intellectual disability" as
98 defined in M.G.L. c. 123B §1, and regulations promulgated thereunder. The pilot project shall be
99 administered consistent with appropriations and shall be limited to individuals who meet the
100 developmental disabilities definition under the Developmental Disabilities Assistance and Bill of
101 Rights Amendments Act of 2000, 42 U.S.C.. 15002(8)). The goals of the grant program shall be
102 to meet the transitional needs of youth with developmental disabilities by expanding services and
103 supports to those persons "without adult service agency ties" in the chapter 688 transition
104 process, other than the Massachusetts Rehabilitation Commission, and to assist the Department
105 in providing cost estimates to the Legislature pursuant to Section 6.

106 SECTION 6: The secretary of executive office of health and human services shall file a
107 report to the Joint Committee on Children, Families and Persons with Disabilities, by January 1,
108 2014 and on an annual basis thereafter, describing information about the total number of
109 individuals referred to the bureau of transition planning of the executive office of health and
110 human services for habilitative services from the bureau or any agency acting on its behalf, and
111 the total number of individuals for whom such services not made available. For such persons for
112 whom services were not made available, and who were determined to be persons with
113 disabilities, said report shall include the proportion of individuals in need of extended case
114 management services related to transition planning, the proportion of types of habilitative
115 services needed by these individuals, and the approximate cost of such type of services which
116 were not provided.

117 SECTION 7: The executive office of health and human services shall file a report to the
118 Joint Committee on Children, Families and Persons with Disabilities, by January 1, 2014 on
119 proposed federal Medicaid revenue strategies to address adult service needs of transitioning
120 students with disabilities who are not eligible for programs at state disability agencies. The
121 report shall evaluate the use of the home and community based services (HCBS) state plan
122 option, Community Choice state option, Medicaid rehabilitation services option, HCBS waivers

123 and demonstration waivers. The report shall consider including ranges and methods of funding
124 needed for individuals with varying support needs, e.g., those who require employment supports
125 only, those who require social supports only, those who require community living/safety
126 supports, those who require nursing or medical supports and/or those who require some
127 combination.

128 SECTION 8: Within 90 days after the passage of this act, the secretary of health and
129 human services shall amend its rules and regulations governing transition planning services in
130 accordance with this Act.