

# **Massachusetts Down Syndrome Congress State Legislative Priorities**



**For the 188th Session of the General Court  
2013-2014**

**Recommended by the  
MDSC Legislative Advocacy Task Force**

Massachusetts Down Syndrome Congress  
20 Burlington Mall Road, Suite 261 Burlington, MA 01803  
781-224-0024  
[www.mdsc.org](http://www.mdsc.org)

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# MASSACHUSETTS DOWN SYNDROME CONGRESS PRIORITY BILLS

## HB 151: An Act Relative to Real Lives Sponsor: Rep. Tom Sannicandro; Sen. Clark

### Summary:

The “Real lives” bill expands the ability of people to direct their own public funds. It requires that the administration implement certain new policies and procedures so as to allow public funds to be used as flexibly as possible by the individual or family.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 19B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting the following three sections:

Section 19. As used in this section, the following words shall have the following meanings:-

(a) “Department”, the Department of Developmental Services.

“Fiscal intermediary”, a financial management service or fiscal intermediary to assist an individual who self-directs in disbursing funds allocated to an individual in their individual budget and in accordance with their person-centered plan. The intermediary shall work at the direction of the individual or an appointed designee identified in the person-centered plan.

“Individual”, an individual eligible to receive services through the Department of Developmental Services.

“Individual budget”, a dollar amount for goods, services and supports specified in the person-centered plan that is under the control and direction of the individual.

“Person-centered plan”, a plan of service for individuals who chose to participate in self-direction.

“Self-determination,” an approach to providing services that underpins a self-direction model of service delivery. Self-determination is based on five principles:

- (1) Freedom, the ability for an individual with disabilities, with chosen family and friends, to plan a life with necessary supports rather than purchase a program;
- (2) Authority, the ability for an individual to control a certain sum of dollars in order to purchase these supports, with the backing of a social network or circle of friends, if needed;
- (3) Support, the arranging of resources and personnel, both formal and informal, to assist an individual to live a life in the community, rich in community associations and contributions, and;

(4) Responsibility, the acceptance of a valued role in an individual's community through employment, affiliations, spiritual development, and general caring for others, as well as accountability for spending public dollars in ways that are life-enhancing;

(5) Confirmation, affirming the central role individuals have in leadership and change.

"Self-determination domains", for individuals who choose self-direction these are the domains to be prioritized in their service planning:

(1) A place to call home with control over anyone who comes through the front door or otherwise provides any services or supports with freely chosen assistance when necessary;

(2) Economic self-sufficiency through supports or funds as needed provided through jobs, self-employment and active or passive pursuit of private dollars

(3) Family, friends and other significant relationships of the individual's choosing and receive assistance to develop or maintain these relationships;

(4) Community membership with real connections to citizens and memberships in vital community organizations.

"Self-direction", a model of service delivery in which services and supports are person-centered, person-defined and person-controlled. Self-direction in a service delivery system includes features ensuring that:

(1) the individual is central to and directs the decision making process that will determine which supports are utilized;

(2) the individual has easy access to information, options, services and supports to enable the individual to self-direct;

(3) the service system is flexible so that the individual can tailor their support to meet their unique needs.

"Support broker", a person chosen by an individual participating in self-direction to assist as dictated by the individual in the development and execution of the person-center plan. This role can include but is not limited to adviser, advocate, facilitator and support staff.

(b) The general court finds that people with disabilities have the same rights and responsibilities as other citizens and the Commonwealth must assist them to realize those rights and exercise those responsibilities as contributing members of our communities. Further, the general court finds that services should help people achieve quality outcomes regarding personal choices, satisfaction, social integration and increased learning that may lead to rewarding occupations. In order to increase flexibility and choice of services, the Department shall promote the growth of self-determination through a self-direction model of service delivery for persons receiving services and supports funded through the Department.

(c) The Department shall establish a Self-Determination Advisory Board to evaluate and to advise the Department on efforts to implement self-direction and to participate in educational outreach efforts on self-direction. The Self-Determination Advisory Board shall include individuals participating in self-direction, family members of individuals participating in self-direction, providers, service brokers, and representatives of advocacy organizations, including but not limited to: The Arc of Massachusetts, Massachusetts Developmental Disabilities Council, Massachusetts Families

Organizing for Change, Massachusetts Advocates Standing Strong, Advocates for Autism of Massachusetts, Massachusetts Down Syndrome Congress, Disability Law Center and the Association of Developmental Disabilities Providers.

(d) All persons eligible for services through the Department shall be eligible for self-direction, including persons with complex medical or behavioral conditions, persons with profound intellectual impairments and persons eligible for services through special eligibility.

(d) The Department shall provide information about self-direction to all persons eligible for services through the Department. (1) The Department shall provide information about self-direction to a person eligible for services upon: (i) the notification to a person of their priority for services; (ii) the beginning of the development of an individual support plan; (iii) the beginning of the renewal of an individual support plan; (iv) the annual notification of persons who have declined an individual support plan of their option to participate in the individual support plan process. (2) The Department shall encourage individuals entering their Turning 22 program that are prioritized for services to pursue self-direction.

(e)(1) The Department shall publish information on the self-determination concept and self-direction options annually and shall make this information available to the public on the Department's website. (2) The Department shall email information on the self-determination concept and self-direction options annually to any organization or interested party that agrees to forward or post the information on their website and who provides their email address. Organizations include: The Arc of Massachusetts, Massachusetts Developmental Disabilities Council, Massachusetts Families Organizing for Change, Massachusetts Advocates Standing Strong, Advocates for Autism of Massachusetts, Massachusetts Down Syndrome Congress, Disability Law Center and the Association of Developmental Disabilities Providers. (3) The Department, in collaboration with the advocacy organizations represented on the Self-Determination Advisory Council, shall hold educational forums with families and individuals to provide information about self-direction no less than four times annually in each service region.

(f) The Department, in collaboration with the advocacy organizations represented on the Self-Determination Advisory Council, shall hold meetings annually with providers to discuss self-direction, how providers can participate, what it means to the present purchase of service system, and how the Department can work with providers to establish self-directed choices within the service system. The Department shall work with providers to help those interested in changing their business model to offer services supporting persons who choose to self-direct. The Department may offer introductory and on-going training to providers and provider staff on the subjects of self-determination, self-direction and the related elements of person-centered planning and individual budgeting.

(g) The Department shall educate all staff, except for staff classified as janitorial, maintenance, or secretarial, on self-direction not less than two times annually.

(g) For individuals who choose self-direction, the Department shall implement a person-centered planning process. The individual shall direct the development of the person-centered plan and shall direct who is involved in the planning process. The person-centered plan shall be designed around the self-determination domains.

(h) Individuals who choose to self-direct shall receive an allocation of resources based on their assessed needs. The amount of allocation and development of an individual budget shall be determined through a person-centered plan. The Department shall determine an individual's prioritization for services and the amount allocated for an individual's services in a transparent manner. The individual or a legal representative designated by the individual shall be able to utilize

resources allocated to them through the individual budget to choose which services and supports best serve the individual's needs and are consistent with meeting goals developed in line with the self-determination domains.

(i)(1) Individuals who choose to self-direct shall have access to a support broker to assist in the development of a plan of service and an individual budget in the person-centered planning process, to assist in the purchase of services and to assist in monitoring expenditures through the year. The support broker shall be made available through the Department or through a qualified private sector broker of the individual's choice. (ii) The Department shall establish basic competencies that must be met in order to qualify private sector or public sector support brokers in consultation with the Self-Determination Advisory Board. (2) Individuals who choose to self-direct shall have access to a state-designated or other qualified fiscal intermediary of the individual's choice to assist in the execution of the purchase of services. (3) If an individual chooses to utilize a private sector support broker, an allocation for the purchase of this service shall be included in the individual's budget. If an individual chooses to utilize a private sector fiscal intermediary, an allocation for the purchase of this service shall be included in the individual's budget.

(j) Providers and employees providing services to individuals through self-direction shall be eligible for a proportional amount of any additional appropriation designated for the increase of salary for workers employed by the Department or its providers.

(k) Individuals who choose to self-direct shall be surveyed at least once annually about their experiences with self-direction and potential improvements to the self-direction model and its overall operation.

(l) The Department shall provide an annual report, after consultation with the Self-Determination Advisory Board, to the Joint Committee on Children, Families, and Persons with Disabilities documenting progress in terms of numbers served through self-direction, ongoing improvements to the Department's self-direction program and challenges related to the Department's self-direction programs. The annual report shall include an analysis of the annual survey of individuals participating in self-direction mandated in section K and strategies to address the issues identified in these surveys.

(m) The Department shall utilize the Home and Community Based Waivers to maximize federal reimbursement for services rendered through self-direction and related models. As necessary, the Department and Executive Office of Health and Human Services shall amend the waiver and take any other steps to ensure that activities or services can be implemented to achieve goals under self-determination domains for individuals.

Section 20. (a) The Department shall establish a contingency fund to assist: (1) Individuals in need of services; (2) Individuals who participate or wish to participate in self-direction or self-determination; (3) Individuals with unanticipated, emergency or changing needs; (4) In the case of an individual who chooses to leave a group living arrangement, in order to mitigate impact to providers. (b) The fund shall be comprised of 40% of the savings from the closure of Monson, Glavin and Templeton and other funds as they may be available within the Department's budget and at its discretion. The Department shall make every effort to ensure that the pool will retain sufficient funds for individuals utilizing self-determination and provider mitigation throughout the fiscal year. (c) The Department shall develop a policy related to the fund for individuals utilizing self-direction with the assistance of the Self-Determination Advisory Board.

Section 21. (a) Individuals and their guardians shall have choice of Department services or qualified providers and shall be free to change the individual's services or service provider. When an

individual or their guardian requests a change, the Department shall initiate the process for requested changes without delay.

(b) Upon an individual or their guardian requesting a change of service or service provider for their group residence or group living situation, the individual or their guardian and the provider shall take steps to see if a resolution to the situation can be reached. If, at any time, the individual feels that a resolution to the situation cannot be reached, the individual or their guardian can request that the following provision be initiated within 7 days of the individual or their guardian notifying the Department: (1) The Department shall assist the individual in developing an alternative living situation, both the Department and the individual will make a good faith effort to determine a suitable alternative; (2) The Department shall work in conjunction with the individual to transfer to an available alternative as expeditiously as possible and taking no longer than 90 days; (3) As necessary, the Department will work with the provider of the residence or group living situation to ensure stability including the use of the contingency fund for mitigation established in Chapter 19B, Section 20.

to utilize a private sector support broker, an allocation for the purchase of this service shall be included in the individual's budget. If an individual chooses to utilize a private sector fiscal intermediary, an allocation for the purchase of this service shall be included in the individual's budget.

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(l) The Department shall provide an annual report, after consultation with the Self-Determination Advisory Board, to the Joint Committee on Children, Families, and Persons with Disabilities documenting progress in terms of numbers served through self-direction, ongoing improvements to the Department's self-direction program and challenges related to the Department's self-direction programs. The annual report shall include an analysis of the annual survey of individuals participating in self-direction mandated in section K and strategies to address the issues identified in these surveys.

(m) The Department shall utilize the Home and Community Based Waivers to maximize federal reimbursement for services rendered through self-direction and related models. As necessary, the Department and Executive Office of Health and Human Services shall amend the waiver and take any other steps to ensure that activities or services can be implemented to achieve goals under self-determination domains for individuals.

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(b) Upon an individual or their guardian requesting a change of service or service provider for their group residence or group living situation, the individual or their guardian and the provider shall take steps to see if a resolution to the situation can be reached. If, at any time, the individual feels that a resolution to the situation cannot be reached, the individual or their guardian can request that the following provision be initiated within 7 days of the individual or their guardian notifying the Department: (1) The Department shall assist the individual in developing an alternative living situation, both the Department and the individual will make a good faith effort to determine a suitable alternative; (2) The Department shall work in conjunction with the individual to transfer to an available alternative as expeditiously as possible and taking no longer than 90 days; (3) As necessary, the Department will work with the provider of the residence or group living situation to ensure stability including the use of the contingency fund for mitigation established in Chapter 19B, Section 20.

## **HB 1674: An Act to Require National Background Checks Sponsor: Rep. Marty Walsh; Sen. Jack Hart**

### **Summary:**

Requires national background checks for all individuals who apply for work with DDS or its vendor agencies. Currently, DDS and vendor agencies are required to conduct statewide CORI checks, but no national check, which means applicant's criminal record outside Massachusetts may not be identified.

SECTION 1. Section 172 of chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is amended by inserting the following new section 172J as follows:-

Notwithstanding any other provision of law, any person seeking employment or a position as a regular volunteer or trainee to provide services for, or, on behalf of the Department of Developmental Services or its vendor agency programs where such employment or position involves potential unsupervised contact with individuals with an intellectual disability (or other individuals determined to be eligible clients of the Department of Developmental Services) shall be required to have a national criminal background check prior to assuming said employment or position. Said criminal background check will be determined by using the Integrated Automated Fingerprint Identification System maintained by the Federal Bureau of Investigation's Criminal Justice Information Services Division.

It shall be the responsibility of the Commonwealth to ensure that said criminal background checks are processed for review prior to such time that an individual seeking employment or a position as a volunteer or trainee assumes said employment or position.

Any person who willfully requests, obtains or seeks to obtain criminal offender record information or the equivalent from other jurisdictions under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information or the equivalent from other

jurisdictions to any agency or person except in accordance with the provisions of sections one hundred and sixty-eight to one hundred and seventy-five, inclusive, or any member, officer, employee or agency of the board or any participating agency, or any person connected with any authorized research program, who willfully falsifies criminal offender record information, or the equivalent from other jurisdictions, or any records relating thereto, shall be in violation of this provision.

The Criminal History Systems Board, the Disabled Persons Protection Commission, and the State Police shall collaborate and jointly oversee the participation by all Department of Developmental Services providers in any interstate system for the exchange of criminal offender record information or the equivalent from other jurisdictions and shall be responsible to assure the consistency of such participation including redacting information so that criminal offender record information or the equivalent from other jurisdictions is limited to convictions and open cases, and, that juvenile records are not made available. Any provider of services to individuals pursuant to a contract with the Department that hires, retains or supervises an employee, volunteer or trainee whom the provider knows or should know, will potentially come into unsupervised contact with such individuals, and, because of a criminal conviction or pending criminal charge of a nature that would pose a unacceptable risk of physical harm to or financial exploitation of such individuals shall be in violation of this provision. The hiring authority shall use, when making a determination of unacceptable risk, the guidelines as provided by existing Department of Developmental Services regulations.

The Board shall afford an individual who may be wrongly associated with a record or whose record may contain errors, the opportunity to contest the accuracy of an out-of-state record. Each individual shall have the right to inspect, and if practicable, copy, criminal offender record information or the equivalent from other jurisdictions which refers to him. If an individual believes such information to be inaccurate or incomplete, the Criminal Systems History Board shall notify the state whose record is contested and assist the individual in following the process for correcting inaccuracies in that state, as well as notify the agency to whom the record was disseminated that the record is being contested and that no adverse action can be taken by that agency pending a resolution of the dispute. This matter should be resolved as soon as practicable but no later than 30 days after notification. Agencies at which criminal offender records or the equivalent from other jurisdictions are sought to be inspected shall prescribe reasonable hours and places of inspection, and shall impose such additional restrictions as may be approved by the board, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them.

# **MASSACHUSETTS DOWN SYNDROME CONGRESS SUPPORT BILLS**

## **HB 136: An Act to Increase the Commonwealth's Compliance with Federal Law Meeting Requirements of the Americans with Disabilities Act.**

**Sponsor: James J. O'Day**

### Summary:

Directs the Executive Office of Administration and Finance shall develop standards to identify and recruit with the intent to hire qualified applicants with disabilities; regulates said standards shall apply to all vendors providing direct services under multi-year contracts or grants funded by agencies within the Executive Offices of the Commonwealth; articulates standards shall include a commitment to hiring people with disabilities and training all employees involved in hiring decisions on the requirements of the Americans with Disabilities Act.

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. Section 61 of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding after subsection (q) the following paragraphs: –

The Executive Office of Administration and Finance shall develop standards to identify and recruit with the intent to hire qualified applicants with disabilities; said standards shall apply to all vendors providing direct services under multi-year contracts or grants funded by agencies within the Executive Offices of the Commonwealth. Standards shall include a commitment to hiring people with disabilities and training all employees involved in hiring decisions on the requirements of the Americans with Disabilities Act.

The Executive Office Administration and Finance shall report its findings, which shall include the progress made toward achieving this employment goal by enumerating percentages of people with disabilities employed by total head count and new hires at the beginning and end of contract period, to the Clerk of the House of Representatives; the Clerk of the Senate; the Joint Committee on Children, Families and Persons with Disabilities; and the Joint Committee on Labor and Workforce Development no later than October 31, 2013, and thereafter, no later than October 31 annually.

# HB 137: An Act for Passage to Independence

## Sponsor: Rep. James O'Day

### Summary:

“Passage to Independence” focuses on adequate funding for Community First with a focus on those served by Dept. of Devel. Services (DDS) and Turning 22 (transition from high school to adult life.) Turning 22 dollars are allocated to DDS and the Mass. Rehab. Commission (MRC). Some monies also set aside for those on the DDS tracking list.

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. Preamble:

Transition is about planning for life—it involves moving from one stage in life to another. One very important transition in the life of a young adult with disabilities is leaving high school and special education services and entering the community services system. This transition is often referred to as “Turning 22”; the age when the student with special needs must leave the public education system. However, this transition can also occur prior to age 22 if the student has graduated from high school at an earlier age. For too many Massachusetts young persons and their families, this has become a nightmarish test of survival. Each new budget year has brought an eleventh-hour drama where families and advocates beg for the obvious realization that children grow up and out of the jurisdiction of DESE. Suddenly, the young person and their family face a potential loss of supports, when entitlement ends for special education services. Nothing guarantees that services OF ANY KIND will be there after graduation or turning 22 years of age. And in an era of decreasing federal and state resources in human services, the future may be even bleaker unless we act NOW.

### Section 2. Appropriations

a) The Department of Developmental Services (DDS) will receive an annualized appropriation of \$23.4 million for Fiscal Year 2015 and four fiscal years thereafter. This appropriation will be to support individuals who are by virtue of becoming 22 years of age, or by virtue of graduation from high school, no longer eligible for Special Education services of DESE. Of that amount, \$3 million will be reserved to support a minimum of 170 persons in supported competitive employment or competitive employment. This appropriation cannot be used for congregate work settings, sheltered workshops, work enclaves or any kind of group work setting, with the exception of work enclaves for a time period no longer than six months, if determined that this is an appropriate step on the way to employment or supported employment.

b) The Department of Developmental Services (DDS) will allocate \$4 million of the above appropriation for line item 5920–2000 (community residential supports account) to address the emergency need for residential services targeted to individuals over the age of 22 who received no prior funding for community residential or family support services. These funds may be used to provide any options within the full spectrum of residential and family support services, i.e. including but not limited to family partnerships to 24 hour/7 day support in group settings. Remaining DDS funds can be utilized for any combination of residential and family support services that address the needs of graduating students.

c) The Massachusetts Rehabilitation Commission (MRC) will receive an annualized appropriation of \$2.5 million for community based employment supports (account 4120–3000) for Fiscal Year 2015 and four fiscal years thereafter to be used to support individuals who are by virtue of becoming 22 years of age, no longer eligible for Special Education services of DESE. Funds also may be used for those who graduated in a previous year.

### Section 3: Eligibility

Under the direction of the Executive Office of Human Services (EOHS) and in consultation with the American Association of Intellectual and Developmental Disabilities (AAIDD), the Department of Developmental Services (DDS) will develop a transparent process for prioritization of individual need for services and supports.

Section 4: Revenue, Sale of State Property

a.) This bill does establish that under the joint direction of the Secretary of Administration and Finance and the Secretary of the Executive Office of Human Services, a defined percentage of federal revenue, over and above a reasonable fiscal year revenue projection, will be retained and returned to DDS for specific use in support of said population reaching the age of 22 years, or upon graduation from high school. These funds will be targeted for emergency family support intervention.

b.) In the event of the sale of state school (ICF-MRs) land and property, 100% of the proceeds of such a sale or sales will be directed to DDS for the express purpose of community-based residential, family, employment and transportation supports for future individuals who by virtue of reaching age 22 are no longer eligible for special education services.

## **HB 149: An Act Creating a Means for Tracking the Unmet Need of Individuals with Developmental Disabilities in the Commonwealth of Massachusetts.**

### **Sponsor: Rep. Tom Sannicandro**

Summary:

Establishes the means to gather more data for assessing the unmet needs of individuals with developmental disabilities. Directs the Office of Disabilities and Community Services to maintain the system and articulates which agencies will submit information.

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. There is hereby established a system of tracking the unmet service needs of individuals with developmental disabilities in Massachusetts. The system will consist of a central electronic database, using open-source software, operated and maintained by The Office of Disabilities and Community Services at the Executive Office of Health and Human Services. The content of the database will consist of data prepared by the following agencies, including but not limited to: the Massachusetts Department of Mental Retardation, the Massachusetts Rehabilitation Commission, the Massachusetts Commission for the Blind and the Massachusetts Commission for the Deaf and Hard of Hearing. Each of the agencies required to submit data will do so annually by means of a standard reporting form which will include statistics regarding the number of individuals with developmental disabilities who apply for services with said agencies, the number of individuals with developmental disabilities receiving services, and the number of individuals with developmental disabilities who apply for services with said agencies and are unsuccessful in receiving services. The Office of Disabilities and Community Services will enter the standard report form content into the electronic database and generate annual reports to be made available on-line to the public.

# **HB 481: Act to Promote Inclusive Transition Programs for Students with Severe Disabilities**

## **Sponsor: Rep. Tom Sannicandro**

### Summary:

Provides Inclusive Concurrent enrollment discretionary grant program to meet needs to students with severe disabilities through a school district–higher education partnership. It will allow such students the change to have an inclusive experience at a higher education setting in the least restrictive environment.

Whereas individuals with disabilities aged 18–22 are entitled to receive a free appropriate public education in the least restrictive environment;

Whereas, the least restrictive environment for most of those students is outside of the confines of a public high school building;

Whereas, individuals with disabilities aged 18–22 have few if any genuine peers that still attend public high school;

Whereas college is the natural place for students aged 18–22 to learn the transition skills necessary to be prepared for integrated competitive employment;

Whereas, individuals with intellectual disabilities who participated in post–secondary education were 26% more likely to leave vocational rehabilitation services with a paid job and earn a 73% higher weekly income;

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 71B of the General Laws is hereby amended by inserting after Section 16 the following section: –

### Section 17: Inclusive Concurrent Enrollment

(a) For the purpose of this section the term “Department” shall mean the Department of Elementary and Secondary Education.

(b) Subject to appropriation, the Department shall develop and administer a discretionary grant program to provide monies to school districts and state public institutions of higher education partnering together to offer inclusive concurrent enrollment programs options for school aged children with disabilities ages 18 to 22, inclusive; provided:

(1) that the grant program shall be limited to said students who are considered to have severe disabilities; and

(2) in the case of students aged 18–19, shall be further limited to students with severe disabilities who have been unable to achieve the competency determination necessary to pass the Massachusetts Comprehensive Assessment System exam.

(b) The goal of the grant program shall be for partnerships to provide a free appropriate public education in the least restrictive environment that meets the transition needs of students with

severe disabilities by developing the capacity of school districts working in partnership with institutes of higher education to support academic success, participation in student life of the college community, competitive employment, and provision of a free appropriate public education in the least restrictive environment. This shall be achieved by fully including students in higher education institutions by requiring the following:

(1) enrollment in credit-bearing and non-credit courses that include students without disabilities including enrollment in credit-bearing courses in audit status for students who may not meet course pre-requisites;

(2) participation in on-campus student life activities for the college community;

(3) adequate preparation for competitive employment;

(4) waiver of tuition for all courses by the institution of higher education;

(5) provision of supports and services necessary to facilitate a student's enrollment and support inclusion in academic courses, extracurricular activities, internships, work experiences, and other aspects of the institution of higher education's regular postsecondary program;

(6) training and technical assistance for teachers, faculty and personnel regarding strategy and teaching methodology to achieve successful inclusion of individuals with severe disabilities;

(7) Students with intellectual disabilities shall be socially and academically integrated with non-disabled students to the maximum extent possible;

(8) formation of a partnership with any relevant agency serving students with intellectual disabilities, including but not limited to a vocational rehabilitation agency;

(9) utilization of person-centered planning in the development of the course of study for each participating student ;

(10) Involvement of students attending the institutes of higher education who are studying special education, general education, vocational rehabilitation, assistive technology , psychology, or related fields;

(c) The department, in consultation with the department of higher education and the Inclusive Concurrent Enrollment Advisory Board, shall develop guidelines and regulations to ensure that the grant program meets this goal.

(d) The executive office of education shall designate an Inclusive Concurrent Enrollment coordinator to manage grant administration and coordinate reporting . The executive office of education shall notify all participating school districts and institutions of higher education of the name and contact information for the inclusive concurrent enrollment coordinator.

(c) The Department shall establish an Inclusive Concurrent Enrollment Advisory Board to evaluate and to advise the Department on efforts to implement inclusive concurrent enrolment and to participate in educational outreach efforts on inclusive concurrent enrollment. The Inclusive Concurrent Enrollment Advisory Board shall include representatives of school districts and colleges and universities where the inclusive concurrent enrollment program has been successfully implemented, 2 former or current students that have participated in an Inclusive Concurrent Enrollment program, the Co-Chair of the Committee on Education or their designees, the Co-Chairs of the Committee on Higher Education or their designees, the Commissioner of Higher Education or

their designee, the Commission of Elementary and Secondary Education of their designee, the Secretary of Education or their designee, the Commissioner of the Department of Developmental Disability Services or their designee, the Commissioner of the Massachusetts Rehabilitation Commission or their designee, a representative of Massachusetts Advocates for Children, a representative of the Federation for Students with Special Needs, a representative of the Institute for Community Inclusion, and the Inclusive Concurrent Enrollment coordinator. The Inclusive Concurrent Enrollment Advisory Board shall meet not less than 6 times per year.

(e) The inclusive concurrent enrollment coordinator, in consultation with the department of elementary and secondary education, the department of higher education and the inclusive concurrent enrollment advisory board, shall develop strategies and procedures designed to assist institutions of higher education in sustaining, expanding and replicating inclusive concurrent enrollment partnerships established through the department's discretionary grant program. Strategies and procedures shall address each the following objectives:

(1) provision of continued grant funding for partnerships between institutions of higher education and school districts that have developed inclusive concurrent enrollment programs in order to sustain the existing programs and to retain employment specialists to assist students in meeting competitive employment and other transition-related goals;

(2) adoption of procedures and funding mechanisms to ensure that new partnerships providing inclusive concurrent enrollment programs fully utilize the models and expertise developed in existing partnerships to ensure that all programs are successful and sustainable;

(3) development of a mechanism to encourage existing and new partnerships to expand capacity to respond to individual parents that request an opportunity for their children to participate in the inclusive concurrent enrollment initiative;

(4) outreach to IHEs that are not currently participating in ICE with intent to encourage such IHEs to offer ICE programming;

(5) description of challenges frequently faced by new ICE programs and a compilation of best practices and strategies to address such difficulties; and

(6) description of challenges frequently faced by institutions of higher education that are interested in entering a partnership and a compilation of best practices and strategies to address such difficulties; and

(7) for those institutions that offer residential life for students, the integration of students with intellectual disabilities into the housing offered to nondisabled students with the accommodations, supports, and services necessary to enable inclusive dormitory living.

(f) The department shall distribute strategies and procedures developed by subsection (e) to all public colleges and universities in the Commonwealth annually.

(g) The department shall select grant recipients no later than July 15 of each year.

(h) The department, in consultation with the department of higher education, shall report to the House and Senate Committees on Ways and Means, the Joint Committee on Education and the Joint Committee on Higher Education on the status of the grant program annually, no later than March 15. The report shall include, but not be limited to the following components:

(1) enrollment data that details the number of students enrolled in ICE each semester and the unduplicated count of total students served at each institution do you mean in a year?;

(2) a list of all full-time and part-time employment positions dedicated to serving inclusive concurrent enrollment students and the average salary for those positions including but not limited to:

- (i) educational coaches;
- (ii) educational specialists;
- (iii) job coaches and vocational specialists;
- (iv) program specialists;
- (v) program director;
- (vi) peer mentors, note-takers, and tutors;
- (vii) contracted employees;
- (viii) parent and school district liaisons.

(3) a list of all courses taken by all ICE students during the academic year with indication as to whether the student attempted the course for credit or for audit and whether the student passed or completed the course

(4) a summary of unique and creative ideas implemented at each IHE that help foster their relationships with school districts or help students succeed

(5) employment data obtained to the best of the ability of the school district and the institute of higher education.

(6) a report detailing the amount of grant funds allocated to each institution of higher education in the planning and implementation phases, the amount allocated to the department of higher education, and the amount allocated to the Department itself.

SECTION 2. The Department shall promulgate guidelines and regulations required pursuant to section 17 of chapter 71B of the General Laws on or before January 1, 2014.

SECTION 3. Section 2 of Chapter 71B of the General Laws, as so appearing, is hereby amended by inserting the following phrase after the tenth item of the third paragraph

;(11) For older students ages 18–22, options including continuing education, enrollment in credit and noncredit courses that include students without disabilities in an Institute for Higher Education, development of independent living skills, development of skills necessary for seeking, obtaining, and maintaining jobs, development of skills to access community services, and development of skills for self-management of medical needs

# **HB 499: An Act to Equity and Fairness for Students with Disabilities**

## **Sponsor: Theodore C. Speliotis**

### Summary:

Amends the chapter relative to special education to clarify reimbursement of legal costs borne by families if proceedings are brought against the department.

SECTION 1. The twelfth paragraph of section 3 of chapter 71B of the General Laws as so appearing, is hereby amended by inserting after the third sentence the following sentence:

The school committee shall have the burden of proof in any proceeding conducted pursuant to this section.

### SECTION 2.

Section 3 of chapter 71B of the General Laws, as so appearing, is hereby amended by inserting after the twelfth paragraph the following paragraph:—

Parents, guardians or persons with custody of a student who have either requested a hearing before the bureau of special education appeals seeking resolution of any dispute, or are parties to a proceeding initiated by a school committee at such bureau shall be entitled to reasonable attorney's fees and related costs, including reasonable expert fees and costs, as a prevailing party if they achieve a favorable result in defense of the school committee's action or if they obtain relief on a significant claim as a result of such request, or an appeal thereof, that effects a material alteration in the parties' legal relationship, and is not merely de minimis, whether such relief is the result of a voluntary change in the school committee's conduct, a settlement agreement, or a decision or order issued by a hearing officer or court.

# **HB 1941: An Act Supporting Individuals with Intellectual and Developmental Disabilities**

## **Sponsor: Rep. Carolyn Dykema**

### Summary:

Calls for Executive Office of Health & Human Services, Department of Public Health, and Office of Medicaid to improve access to high-quality health care and eliminate health care disparities among disability populations. Areas of focus will include care coordination, disability education requirements and cultural competence for professional licensure and renewal.

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. Section 10 of chapter 13 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

The board shall require that physicians complete training to address the needs of individuals with

intellectual and developmental disabilities.

SECTION 2. Section 11C of said chapter 13 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The board shall require that physician assistants complete training to address the needs of individuals with intellectual and developmental disabilities.

SECTION 3. Section 11D of said chapter 13 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The board shall require that dietitians and nutritionists complete training to address the needs of individuals with intellectual and developmental disabilities.

SECTION 4. Section 14 of said chapter 13 of the General Laws, as so appearing, is hereby amended by adding the following sentence:-

(l) The board shall require that nurses complete training to address the needs of individuals with intellectual and developmental disabilities.

SECTION 5. Section 19 of said chapter 13 of the General Laws, as so appearing, is hereby amended by adding the following sentence:-

The board shall require that dental professionals complete training to address the needs of individuals with intellectual and developmental disabilities.

SECTION 6. Section 90 of said chapter 13 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The board shall require that allied mental health and human services professions complete training to address the needs of individuals with intellectual and developmental disabilities.

SECTION 7. Notwithstanding any general or special law to the contrary, the office of health equity within the executive office of health and human services, shall evaluate the access to medical care, unmet mental health needs, discrimination, relationships with community support specialists, and increasing the amount of qualified trained health care providers for individuals with intellectual and developmental disabilities. The executive office of health and human services shall, based on such evaluation, promulgate rules and regulations to reduce the impact of such determinants on health care disparities outcomes for such individuals with intellectual and developmental disabilities.

# **HB 2839: An Act Facilitating the Development of Underutilized Properties Formerly Operated by the Department of Mental Health or the Department of Mental Retardation for Supported Housing for People Deemed Eligible for Services by the Department of Mental Health or the Department of Mental Retardation**

## **Sponsor: Rep. Kay Khan**

### Summary:

Proposes a mechanism to capture 50 percent of the proceeds of the sale or disposition of surplus property of the Dept. of Mental Health and Developmental Services for use in creating housing for persons served by the DDS or DMH.

SECTION 1. Chapter 7 of the General Laws as so appearing in the 2004 Official Edition, is hereby amended by inserting after section 40F½ the following section:--

Section 40F¾. Notwithstanding the provisions of section 40F or any other general or special law to the contrary, when the commissioner of the division of capital asset management and maintenance requests from the general court authorization to dispose of state real property formerly used as a department of mental health state hospital, or a department of mental retardation facility for individuals with mental retardation, the request shall include a restriction that requires a) not less than fifty per cent of the disposition proceeds from the transferred property be used to develop decent, safe, sanitary, affordable, community-based housing pursuant to applicable federal guidelines, for individuals who are clients of the department which operated such real property, if housing is not going to be developed on the site, or b) if housing is to be developed on the site, not less than fifty percent of the housing so developed, to be decent, safe, sanitary, affordable, community-based housing pursuant to applicable federal guidelines, for individuals who are clients of the department which operated such real property. Housing developed or funded under this section shall be affordable to eligible individuals with incomes at or below fifteen per cent of the area median income; provided, that the development may include scattered site, integrated independent living apartments; provided further that said restriction shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected property is located, running with the land, that the land be used for the purpose of providing housing for eligible individuals as determined by the department of mental health or the department of mental retardation, as the case may be; provided further, that said property shall not be released from such restriction until after the expiration of ninety-nine years from the date of initial occupancy by such eligible individuals. If disposition proceeds from the transferred property are to be used for development of housing on property other than that formerly used as a department of mental health state hospital, or a department of mental retardation facility for individuals with mental retardation, said proceeds shall be placed within a dedicated account under control of the appropriate agency as the case may be prior to their disposition into the General Fund.

# **MASSACHUSETTS DOWN SYNDROME CONGRESS SUPPORT SENATE BILLS**

## **SB 30/HB 106: An Act Relative to the Humane Treatment of Disabled Persons**

**Sponsors: Senator Brian Joyce**

Summary:

Bans aversive therapy in Massachusetts. Prohibits the use of corporeal punishment, including shocking and pinching, for the purpose of changing the behavior of persons with physical or mental disabilities by any program funded, operated, licensed or approved by the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 16 of Chapter 6A of the General Laws, as appearing in the 2010 official edition, is hereby amended by adding at the end thereof the following text:–

Disabled citizens, as all other citizens of the Commonwealth, are entitled to equal protection under Article CXIV of the Massachusetts Constitution, which prohibits discrimination on the basis of handicap, and the full protection of the laws of the Commonwealth, which prohibit the use of corporal punishment on school children and prisoners.

No program funded, operated, licensed, or approved by any agency or subdivision of the Commonwealth shall administer to any person with a physical or mental disability any procedure which causes obvious signs of physical pain, including, but not limited to, hitting, pinching, and electric shock for the purposes of changing the behavior of the person.

No such program may employ any form of physical contact or punishment that is otherwise prohibited by law, or would be prohibited if used on a non-disabled person.

No such program may employ any procedure which denies a person with a physical or mental disability adequate sleep, food, shelter, bedding or bathroom facilities.

## **SB 218: An Act to Maintain Short Term Objectives for Students with Disabilities**

**Sponsors: Sen. Cynthia Creem**

Summary:

Requires that children's individualized education programs, or IEPs, include a statement of measurable annual goals, and a description of short-term objectives.

An Act to maintain short term objectives for students 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:

SECTION 1. Chapter 71B, Section 3 of the General Laws is hereby amended by inserting the following sentence after line 137:

A child's individualized education program, or IEP, as defined is 20 USC sec 1401 (14) shall include a statement of measurable annual goals, including academic and functional goals, and a description of benchmarks or short-term objectives.