[Similar matter filed during past session — See Senate No. 1158 of 1973]

SENATE . . . . No. 318

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 318) of Joseph F. Timilty for legislation to establish a bill of rights for handicapped and disabled persons. Social Welfare.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT TO ESTABLISH A BILL OF RIGHTS FOR HANDICAPPED AND DISABLED PERSONS.

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

1 Chapter 18D of the Massachusetts General Laws is hereby amended by inclusion of the following sections: —

2 EQUAL OPPORTUNITIES FOR THE HANDICAPPED ACT

3 Section 22. Declaration of purpose
4 It is the policy of this State to guarantee physically and mentally handicapped persons the fullest possible participation in the social and economic life of the State, to engage in remunerative employment, and to secure housing accommodations of their choice.

5 The right to employment otherwise lawful without discrimination because of physical or mental handicap, where the reasonable demands of the position do not require such a distinction, and the right to the purchase or rental of property without discrimination because of physical or mental handicap are hereby recognized as and declared to be the rights of all the people of the State. It is hereby declared to be the policy of the State to protect these rights and this Act shall be construed to effectuate such policy.

6 Section 23. Definitions.
7 As used in this Act unless the context otherwise requires:
8 The term “person” includes one or more individuals, partnerships, associations or corporations.
9 The term “physical or mental handicap” means a handicap
unrelated to one's ability to perform jobs or positions available
to him for hire or promotion or a handicap unrelated to one's
ability to acquire, rent and maintain property. It does not
constitute evidence of "one's ability to perform jobs or posi-
tions available to him for hire or promotion" or "one's ability
to acquire, rent and maintain property" that a person has been
treated as a person in need of mental treatment as defined by
the Mental Health Code of 1967, as now or hereafter amended,
or that the person has or is alleged to have undergone mental
treatment or evaluation.

The term "employer" means a person or governmental unit
or officer in this State having in his or its employ one or more
individuals; and any person acting in the interest of an em-
ployer, directly or indirectly.

The term "labor organization" means any organization of
employees which exists for the purpose, in whole or in part, of
collective bargaining or of dealing with employers concerning
grievances, terms, or conditions of employment or for other
mutual aid or protection in connection with employment.

The term "property" means any building, structure, or por-
tion thereof which is occupied as, or designed or intended for
occupancy as, a residence by one or more persons, and any
vacant land which is offered for sale or lease for the construc-
tion or location thereon of any such building, structure, or
portion thereof.

The term "to rent" includes to lease, to sublease, to furnish
as compensation, to let and otherwise grant for a considera-
tion the right to occupy premises not owned by the occupant.

Section 24. Employers—Unlawful employment practices

It is an unlawful employment practice for an employer:

(1) to refuse to hire, to discharge, or otherwise to discrimi-
nate against any individual with respect to his terms, condi-
tions or privileges of employment otherwise lawful, because
of such individual's physical or mental handicap, unless it can
be shown that the particular handicap prevents the perform-
ance of the employment involved; or

(2) to utilize in the hiring or recruitment of individuals for
employment otherwise lawful, any employment agency, place-
ment service, training school or center, labor organization or
any other sources which unreasonably discriminates against such individuals because of their physical or mental handicap.

Section 25. Labor organizations — Unlawful employment practices

It is an unlawful employment practice for any labor organization to discriminate unreasonably against any individual on the basis of physical or mental handicap or to limit, segregate or classify its membership in any way which would deprive or tend to deprive such individual of otherwise lawful employment opportunities or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment or would affect adversely his wages, hours or conditions of employment.

Section 26. Employers and labor organizations — Discrimination against person seeking benefits of this act

It is an unlawful employment practice for any employer or labor organization to discharge, expel or otherwise discriminate against any person because such person opposed any unlawful employment practice specified in this Act or has filed a charge, testified, participated or assisted in any proceeding arising from this Act.

Section 27. Unlawful housing practices — Sales or rentals

It is an unlawful housing practice for any person:

1. to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, property to any person because of his physical or mental handicap;

2. to discriminate against any person in the terms, conditions, or privileges of sale or rental of property, or in the provision of services or facilities in connection therewith, because of such person's physical or mental handicap; however, subsection (2) shall not be construed to require any person selling or renting property to modify such property in any way or exercise a higher degree of care for a person having a physical or mental handicap than for a person who does not have a physical or mental handicap; nor shall subsection (2) be construed to relieve any person of any obligation generally imposed on all persons regardless of handicap in a written lease, rental agreement, or contract of purchase or sale, or to forbid
102 distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of such lease, agreement or contract;

105 (3) to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of property that indicates any limitation or discrimination based on physical or mental handicap, or an intention to make any such limitation or discrimination;

110 or

111 (4) to represent to any person because of physical or mental handicap that any property is not available for inspection, sale, or rental when such property is in fact so available.

Section 28. Unlawful housing practices — Lenders

It is an unlawful housing practice for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining property, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of such person's physical or mental handicap when such physical or mental handicap does not impair his ability to fulfill the terms or conditions of such loan or other financial assistance.

Section 29. Educational Opportunities — Discrimination

It is an unlawful act for any educational institution to refuse to admit or enroll, or otherwise to discriminate against any individual because of such individual's physical or mental handicap.

Section 30. Penalty.

Any person who commits a discriminatory employment practice or a discriminatory housing practice is guilty of a misdemeanor and shall be fined not more than $2,000, or imprisoned not more than 30 days in a penal institution other than a penitentiary, or both.

Section 31. Action for damages
Any person personally aggrieved by a discriminatory employment practice or a discriminatory housing practice or a discriminatory educational practice may, in addition to any other remedy available under applicable law, bring a court action for damages resulting from such discriminatory employment practices or discriminatory housing practice, for any order granting him employment, or for any other relief which the court may allow.

Section 32. Severability

If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.