

HOUSE No. 00061

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 bill:

An Act requiring child and parent involvement in permanency and placement planning.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>George Ross</i>	<i>2nd Bristol</i>

HOUSE No. 00061

By Ms. Kay Khan of Newton, petition (accompanied by bill, House, No. 00061) of George Ross and others requiring child and parent involvement in permanency and placement planning. Joint Committee on Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act requiring child and parent involvement in permanency and placement planning.

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

1

2 SECTION 1. Section 51B (c) of Chapter 119 is hereby amended by striking the text and
3 inserting in place thereof the following:

4 (c) If the department has reasonable cause to believe a child's health or safety is in immediate
5 danger from abuse or neglect, the department shall take a child into immediate temporary
6 custody if it has reasonable cause to believe that the removal is necessary to protect the child
7 from abuse or neglect. The investigation and evaluation shall commence within 2 hours of initial
8 contact and an interim report with an initial determination regarding the child's safety and
9 custody shall be completed as soon as possible but not more than 24 hours after initial contact.

10 The final report required under this section shall be complete within five business days of initial
11 contact. If a child is taken into immediate temporary custody, the department shall make a

12 written report stating the reasons for such removal and shall file a care and protection petition
13 under section 24 on the next court day.

14 Each child who is age seven or older shall be given a meaningful opportunity to participate in the
15 development of the case plan and to state his or her preference(s) for initial and any subsequent
16 placement or custody. The department shall ask any child who is age seven or older to provide
17 the names of any kin or other adults with whom the child has a relationship. Further, the
18 department shall ask any child who is seven or older, in private, to state his or her preference(s)
19 for initial and any subsequent placement or custody.

20 Each parent shall also be asked to provide the name of kin or other adults with whom the child or
21 the family has a relationship who could serve as a potential placement for the child. Each parent
22 shall also be given a meaningful opportunity to participate in the development of the case plan
23 and to state his or her preference(s) for initial and any subsequent placement or custody of his or
24 her child.

25 If the department has or is seeking custody of a child, the department shall first investigate the
26 possibility of placing the child in accordance with the placement preferences of the child and/or
27 parent(s). The department shall complete that investigation before placing the child except in the
28 case of an emergency placement, in which case the department shall make every effort to
29 complete the investigation within 48 hours after the placement, and make placement changes as
30 appropriate based on the outcome of that investigation. Specific reasons for placement decisions
31 must be documented in writing in the case file, including the reasons for rejecting placements
32 identified by the child and/or parent(s).

33 SECTION 2. Section 51B (e) of Chapter 119 is hereby amended by striking the text and
34 inserting in place thereof the following:

35 (e) Notwithstanding subsection (c), whenever the department has reasonable cause to believe that
36 removal is necessary to protect a child from abuse or neglect, it shall take the child into
37 immediate temporary custody. If a child is taken into immediate temporary custody, the
38 department shall make a written report stating the reasons for such removal and shall file a care
39 and protection petition under section 24 on the next court day.

40 Each child who is age seven or older shall be given a meaningful opportunity to participate in the
41 development of the case plan and to state his or her preference(s) for initial and any subsequent
42 placement or custody. The department shall ask any child who is age seven or older to provide
43 the names of any kin or other adults with whom the child has a relationship. Further, the
44 department shall ask any child who is seven or older, in private, to state his or her preference(s)
45 for initial and any subsequent placement or custody.

46 Each parent shall also be asked to provide the name of kin or other a with whom the child or the
47 family has a relationship who could serve as a potential placement for the child. Each parent
48 shall also be given a meaningful opportunity to participate in the development of the case plan
49 and to state his or her preference(s) for initial and any subsequent placement or custody of his or
50 her child.

51 If the department has or is seeking custody of a child, the department shall first investigate the
52 possibility of placing the child in accordance with the placement preferences of the child and/or
53 parent(s). The department shall complete that investigation before placing the child, and make
54 placement changes as appropriate based on the outcome of that investigation. Specific reasons

55 for placement decisions must be documented in writing in the case file, including the reasons for
56 rejecting placements identified by the child and/or parent(s).

57 SECTION 3. Section 51B (g) of Chapter 119 is hereby amended by striking the text and
58 inserting in place thereof the following:

59 (g) The department shall offer appropriate services to the family of any child which it has
60 reasonable cause to believe is suffering from any of the conditions described in the report to
61 prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family
62 life whenever possible. If the family declines or is unable to accept or to participate in the offered
63 services, the department or any person may file a care and protection petition under section 24.

64 Each family assessment and service plan must document the involvement of the parents or
65 guardians and children age seven or older, including children in the custody of the department
66 and their siblings or half-siblings and children placed by a court in the custody or under the
67 guardianship of a relative or other suitable person, in the development of the plan. Such efforts
68 must include, but are not limited to: (a) Encouraging the parents or guardian and the children to
69 participate in the development and review of the plan and attempting to obtain the parents' or
70 guardian's signatures documenting their review of the plan (b) obtaining information through
71 separate and private conversations from the child and the parents about potential kin or other
72 adults with whom the child or the family has a relationship who could serve as a placement for
73 the child and (c) If either the parents or child is not involved in the development of the plan, the
74 reasons must be documented.

75 SECTION 4. Section 23 (c) of Chapter 119 is hereby amended by striking the text and inserting
76 in place thereof the following:

77 (c) Whenever the department places a child in foster care, the department shall immediately
78 commence a search to locate any relative of the child or other adult person who has played a
79 significant positive role in that child's life in order to determine whether the child may
80 appropriately be placed with that relative or person if, in the judgment of the department, that
81 placement would be in the best interest of the child.

82 Each child who is age seven or older shall be given a meaningful opportunity to participate in the
83 development of the case plan and to state his or her preference(s) for initial and any subsequent
84 placement or custody. The department shall ask any child who is age seven or older to provide
85 the names of any kin or other adults with whom the child has a relationship. Further, the
86 department shall ask any child who is seven or older, in private, to state his or her preference(s)
87 for initial and any subsequent placement or custody.

88 Each parent shall also be asked to provide the name of kin or other adult with whom the child or
89 the family has a relationship who could serve as a potential placement for the child. Each parent
90 shall also be given a meaningful opportunity to participate in the development of the case plan
91 and to state his or her preference(s) for initial and any subsequent placement or custody of his or
92 her child.

93 If the department has or is seeking custody of a child, the department shall first investigate the
94 possibility of placing the child in accordance with the placement preferences of the child and/or
95 parent(s). The department shall complete that investigation before placing the child and make
96 placement changes as appropriate based on the outcome of that investigation. Specific reasons
97 for placement decisions must be documented in writing in the case file, including the reasons for
98 rejecting placements identified by the child and/or parent(s).

99 The department shall also seek to identify any minor sibling or half-sibling of the child and
100 attempt to place these children in the same foster family if, in the judgment of the department,
101 that placement would be in the best interests of the children.

102 SECTION 5. Section 29 of Chapter 119 is hereby amended by striking the text and inserting in
103 place thereof the following:

104 Whenever an adult with mental retardation who is the responsibility of the department or a child
105 is before any court under clause (3) of subsection (a) of section 23, or sections 24 to 27,
106 inclusive, this section or section 29B, that adult or child shall have and be informed of the right
107 to counsel at all hearings and that the court shall appoint counsel for that adult or child if the
108 adult or child is not able to retain counsel.

109 Whenever the department or a licensed child placement agency is a party to child custody
110 proceedings, the parent, guardian or custodian of the adult with mental retardation or the child:
111 (i) shall have and be informed of the right to counsel at all such hearings, including proceedings
112 under sections 5 and 14 of chapter 201, and that the court shall appoint counsel if he is
113 financially unable to retain counsel; and (ii) shall have and be informed of the right to a service
114 plan or case plan for the adult with mental retardation or child and his family which complies
115 with applicable state and federal laws and regulations for these plans. The probate and family
116 court and the juvenile court departments of the trial court shall establish procedures for: (i)
117 notifying the parent, guardian or custodian of these rights; and (ii) appointing counsel for an
118 indigent parent, guardian or custodian within 14 days of a licensed child placement agency filing
119 or appearing as a party in any such action. The department or agency shall provide a copy of the
120 service or case plan to the parent, guardian or custodian of the adult with mental retardation or

121 child and to the attorneys for all parties appearing in the proceeding within 45 days of the
122 department or agency filing an appearance in such proceeding. Thereafter, any party may have
123 the original or changed plan introduced as evidence, and with the consent of all parties the plan
124 shall be filed with the court. Notwithstanding this section, the court may make such temporary
125 orders as may be necessary to protect the adult with mental retardation or the child and society.

126 Before any non-emergency change in a child's placement or any non-emergency hospitalization,
127 and no later than one business day after any emergency change in a child's placement or any
128 emergency hospitalization, the department shall provide notice of the change in placement to the
129 child's attorney, the parents' attorneys, and the probation department.

130 The department, upon its request, shall be represented by the district attorney for the district in
131 which the case is being heard.