

SENATE No. 109

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

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 adoption of the accompanying bill:

An Act to assure quality foster care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Adam Gomez</i>	<i>Hampden</i>	
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>3/4/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>3/4/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/8/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/8/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/11/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/29/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>4/5/2021</i>

SENATE No. 109

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 109) of Adam Gomez, Anne M. Gobi, Erika Uytterhoeven, Vanna Howard and other members of the General Court for legislation to assure quality foster care. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to assure quality foster care.

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 23 of chapter 119 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting the following new sub-section (j):

3 (1) As used in this section, the following words shall, unless the context clearly requires
4 otherwise, have the following meanings:

5 “Employee organization,” an employee organization as defined in section 1 of chapter
6 150E.

7 “Foster Parent,” a person authorized or licensed by the Department of Children and
8 Families to provide foster care or pre-adoptive care to children in the care or custody of the
9 Department of Children and Families or a former foster parent who receives a post-adoptive
10 subsidy from said department.

11 (2) The department shall, subject to appropriation and notwithstanding any general or
12 special law to the contrary, assure quality foster care provided to children placed with foster
13 parents and families by working cooperatively with foster parents to build upon the existing
14 system and continuously improve the provision of high quality foster care through foster parents
15 who have the requisite qualifications, supports, and training.

16 (3) Foster parents shall be considered public employees, as defined by and solely for the
17 purposes of Chapter 150E, sections 17A and 17J of chapter 180, section 10B of chapter 66 and
18 clause 26(o) of section 7 of chapter 4. Said chapter 150E, including subsection (c) of section 7,
19 shall apply to foster parents except to the extent that chapter 150E is inconsistent with this
20 section, in which case this section shall control. Foster parents shall not be considered public
21 employees or state employees for any purpose other than those set forth in this section. The
22 department, acting through the commissioner, shall be the employer, solely for the purposes of
23 said chapter 150E, said sections 17A and 17J of said chapter 180, and said section 10B of
24 chapter 66. Foster parents shall not be eligible for benefits through the group insurance
25 commission, the state board of retirement or the state employee workers' compensation program.

26 (4) Consistent with section 9A of said chapter 150E, no foster parent shall engage in a
27 strike and no foster parent shall induce, encourage or condone any strike, work stoppage,
28 slowdown or withholding of services by any foster parent.

29 (5) The only appropriate bargaining unit for foster parents shall consist of all foster
30 parents in the commonwealth who are on the most current list of authorized or licensed foster
31 parents which shall be provided by the commissioner.

32 (6) An employee organization seeking to represent foster parents shall file with the
33 department of labor relations under section 4 of said chapter 150E.

34 (7) The mandatory subjects, as to which the department and an employee organization
35 certified by the department of labor relations as the bargaining representative of foster parents
36 shall bargain, shall include, but not be limited to, the responsibilities of the foster parents, the
37 responsibilities of the department to the foster parents, developing and encouraging greater
38 education and training opportunities for foster parents, improving recruitment and retention of
39 qualified foster parents, payment rates, rate structures and payment and reimbursement
40 procedures for foster care, supplemental reimbursements for medical or other specialized care,
41 service as educational surrogate parents, attendance at court hearings and foster care review
42 meetings, costs of insurance and reimbursement for property losses caused by children in the
43 care and custody of the department, reimbursement for expenses associated with extra-curricular
44 and social activities, access to training, professional consultation and support, including but not
45 limited to special education, mental and behavioral health, expansion of and access to respite
46 care, foster parent participation in the development of service plans for children in the care and
47 custody of the department , procedures for notice and information regarding placement and
48 service plan changes, and dispute resolution procedures.

49 (8) Nothing in this section shall modify any right of the department to decide to place or
50 remove a child from the home of a foster parent or the rights of foster parents to appeal and
51 review pursuant to the Department's Grievance and Fair Hearing Procedures, 110 CMR 10.

52 (9) Nothing in this section shall alter or abridge the department's statutory rights and
53 responsibilities to license foster parents, visit, inspect and monitor foster homes, or to suspend,

54 revoke, sanction or take any other action against a foster parent’s license in furtherance of this
55 chapter or in furtherance of the department’s regulations promulgated in this regard. The
56 collective bargaining process and the grievance procedures described in said chapter 150E, shall
57 not apply to the department’s statutory and regulatory licensing, monitoring and enforcement
58 functions.

59 (10) To the extent provisions in written agreements between the department and foster
60 parents are inconsistent with the terms of agreements collectively bargained pursuant to this
61 section, the terms of the collectively bargained agreement shall control.

62 (11) Collective bargaining and related activity by foster parents, as authorized under this
63 section, shall qualify for the state action exemption to the federal anti-trust laws.

64 SECTION 2. The first paragraph of subsection (c) of section 7 of chapter 150E of the
65 General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the
66 word providers, as appearing in line 5, the following words:-,” the department of children and
67 families with regard to bargaining with foster parents.”

68 SECTION 3. Subsection (j) of section 23 of Chapter 119 of the General Laws, as
69 appearing in section 1, shall take effect upon passage of this act.