

SENATE No. 2471

The Commonwealth of Massachusetts

PRESENTED BY:

Anne M. Gobi

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 relative to the appointment of guardians ad litem in the housing court.

PETITION OF:

NAME:

Anne M. Gobi

DISTRICT/ADDRESS:

Worcester, Hampden, Hampshire and Middlesex

SENATE No. 2471

By Ms. Gobi, a petition (accompanied by bill, Senate, No. 2471) (subject to Joint Rule 12) of Anne M. Gobi for legislation relative to the appointment of guardians ad litem in the housing court. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to the appointment of guardians ad litem in the housing court.

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 185C of the Massachusetts General Laws shall be hereby amended by adding at
2 the end thereof, the following new sections:

3 Section XX. Any judge of the housing court may appoint a guardian ad litem to
4 investigate the facts of any proceeding pending in said court in which the judge finds need for
5 such an independent investigation. Said guardian ad litem shall, before any hearing, trial, or
6 colloquy, report in writing to the court the results of the investigation, with any
7 recommendations, and such report shall be filed under seal but open to inspection to all the
8 parties in such proceeding or their attorneys. The compensation shall be fixed by the court and
9 shall be paid by the commonwealth, together with any expense approved by the court, upon
10 certificate by the judge to the state treasurer. The state police, local police, and probation officers
11 shall assist the guardian ad litem so appointed upon his request.

12 Section XX. Any judge of the housing court may appoint a guardian ad litem to assist in
13 obtaining a clinical evaluation of a party's competency, and to arrange for social services for a
14 party, in any case for which the court has reason to believe an individual's mental health, at least
15 in part, forms the basis of any claims or causes of action in the case. Said guardian ad litem shall,
16 before any hearing, trial, or colloquy, report in writing to the court the results of any
17 investigation, with any recommendations, and as to the status of the case, and such report shall
18 be filed under seal but open to inspection to all the parties in such proceeding or their attorneys.
19 The compensation shall be fixed by the court and shall be paid by the commonwealth, together
20 with any expense approved by the court, upon certificate by the judge to the state treasurer. The
21 state police, local police, and probation officers shall assist the guardian ad litem so appointed
22 upon his request.

23 Section XX. Any judge of the housing court may appoint a guardian ad litem and
24 authorize the guardian ad litem to substitute the guardian ad litem's judgment for any individual
25 named or involved in the case, on a finding by clear and convincing evidence that said individual
26 cannot meaningfully engage in the proceedings by reason of diminished mental capacity or
27 incompetence. Once the judge has allowed a motion to use substituted judgment, or having so
28 ordered sua sponte, the guardian ad litem shall not file reports with the court, his
29 communications with the individual for whom his judgment is being substituted will be
30 confidential and undiscoverable, and the guardian ad litem may advocate on behalf of the
31 individual as the individual would, were it not for the individual's mental limitations, but may
32 not enter into a dispositive settlement on behalf of the individual without the judge's specific
33 order authorizing the settlement. The compensation shall be fixed by the court and shall be paid
34 by the commonwealth, together with any expense approved by the court, upon certificate by the

35 judge to the state treasurer. The state police, local police, and probation officers shall assist the
36 guardian ad litem so appointed upon his request.