

SENATE No. 780

The Commonwealth of Massachusetts

PRESENTED BY:

William N. Brownsberger, (BY REQUEST)

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 clarifying that perpetrators of rape have no parental rights.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Wendy Murphy

SENATE No. 780

By Mr. Brownsberger (by request), a petition (accompanied by bill, Senate, No. 780) of Wendy Murphy for legislation to clarify that perpetrators of rape have no parental rights. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act clarifying that perpetrators of rape have no parental rights.

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. Notwithstanding any general or special law to the contrary, when pregnancy
2 and childbirth occur as a result of unwanted sex, and when a criminal conviction, continuation
3 without a finding, admission to sufficient facts, or adjudication of delinquency results from any
4 charge related to said unwanted sex, the individual who perpetrated said unwanted sex shall have
5 no rights, privileges, or entitlements whatsoever regarding that child, including but not limited to
6 rights related to parenthood, care and custody, inheritance, visitation, and all matters of family
7 and relationship privilege, confidentiality, and medical care. The probate and family court
8 department shall be precluded from accepting or asserting jurisdiction or adjudicating any matter
9 regarding that child on behalf of the individual who perpetrated the unwanted sex act, or anyone
10 related to said person or asserting claims or rights derived from a legal or other relationship with
11 said person.

12 Nothing shall inhibit any court or other government official or entity from imposing
13 sanctions and obligations on any individual for any purpose related to or arising out of said
14 unwanted sexual conduct, related pregnancy and childbirth.

15 In the absence of a criminal conviction or finding of guilt of delinquency as described
16 above, a court of competent jurisdiction shall determine whether a preponderance of evidence
17 establishes that unwanted sex caused pregnancy. If such a determination is made, the person who
18 perpetrated said unwanted sex may not assert or seek to establish rights with regard to said child
19 if the sole or primary basis for such request is the perpetrator's biological connection to the child.

20 Where parental rights are properly established, and unwanted sex causing pregnancy has
21 been proved by a preponderance of evidence, a court shall terminate parental rights where a
22 totality of the evidence establishes by clear and convincing evidence that parental rights should
23 be terminated.

24 Proof of unwanted sex need not be established by clear and convincing evidence to be
25 considered relevant in an assessment of the totality of evidence, but if it is proved by clear and
26 convincing evidence, then unwanted sex, alone, shall suffice to terminate parental rights.

27 For purposes of this section, “unwanted” is defined as an act that was not welcomed or
28 wanted, as determined solely by the subjective state of mind of the person who suffered the
29 unwanted act. All such acts when a person is a minor under age 16 are deemed unwanted
30 irrespective of that person’s subjective state of mind.

31 For purposes of this section, all criminal law definitions, criminal law substantive and
32 procedural standards, and criminal law burdens of proof shall be inapplicable even if a

33 proceeding occurring under this section is litigated as part of or in connection with a criminal or
34 juvenile proceeding.

35 Upon discovery that a female is pregnant as a result of alleged unwanted sexual conduct,
36 no legal proceedings shall take place relative to parental rights, care, custody, visitation and/or
37 other rights regarding the child, on behalf of the putative perpetrator of unwanted conduct, until
38 after all criminal, juvenile and other investigations, prosecutions, appeals, and related matters
39 have been finally determined. Until such matters are finally determined, the child shall have no
40 direct or indirect contact with the putative perpetrator of said unwanted contact, or any relative of
41 said perpetrator or other person asserting claims or rights derived from a legal or other
42 relationship with such person.