HOUSE DOCKET, NO. 2985 FILED ON: 1/21/2011

HOUSE . . . . . No. 2236

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:

An Act relative to sibling and half-sibling visitation rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	*11th Middlesex*
Chris Walsh	*6th Middlesex*
George T. Ross	*2nd Bristol*

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HOUSE . . . . . No. 2236

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 2236) of Kay Khan, Chris Walsh and George T. Ross relative to court orders regarding visits and other contact between certain siblings and half-siblings. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to sibling and half-sibling visitation rights.

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

SECTION 1. Section 26B of chapter 119 of the General Laws, as so appearing in the 2008 Official Edition is hereby amended by deleting subsection (b) and inserting the following:-

(b) (1) The court and the department, with respect to any child in or under the department's care, custody or responsibility, or the court, with respect to any other child who is subject to its jurisdiction, shall ensure that the child, regardless of where he or she resides, has regular and frequent visits and other contact with all siblings and half-siblings from whom the child has been separated through department placements, through adoption, guardianship or other custodial arrangements, or through restoration of a parent's custody.

Immediately upon any separation of siblings or half-siblings, the court shall ensure that regular, frequent and meaningful visits and other contact are scheduled and provided, to be arranged and monitored through the appropriate public or private agency, and with the participation of the department, the foster, pre-adoptive or adoptive parents, the siblings' or half-siblings' parents, any other caretakers, custodians or guardians of the children, and the child, if reasonable, and other individuals who are relevant to the preservation of sibling relationships and visitation rights.

A child or sibling or half-sibling of a child placed voluntarily under clause (1) of subsection (a) of section 23 or under an adoption surrender under section 2 of chapter 210, who is not provided visits by the department, may appeal through the department's fair hearing process. The child or sibling may appeal the decision reached through the department's fair hearing process by filing a petition in the probate and family court for visits. The child or sibling may file a petition in the probate and family court for visits if there is no decision from a department fair hearing officer within 60 days of the request for relief. The petitioning child or sibling shall have the right to court review by trial de novo.

24 If a child is subject to the jurisdiction of the court under this chapter, a sibling, half-
25 sibling, parent, guardian or the department may file a motion for sibling visits. A sibling or half-
26 sibling who is not subject to the jurisdiction of the court under this chapter, or a parent, adoptive
27 parent, or guardian of such sibling or half-sibling on that person's behalf, may file a petition for
28 visits with a sibling or half-sibling who is subject to the jurisdiction of the court, and may
29 thereby become a party to the action for the limited purpose of the petition for visits. Any such
30 petition shall be served on all parties to the action under this chapter and on the department.

31 Visits and other contact are presumptively in the best interests of siblings and half-
32 siblings. If the department shows by clear and convincing evidence that sibling visits or other
33 contact are detrimental to the welfare of one or more siblings, the court may suspend visits or
34 other contact. The court shall make specific findings to support such suspension. Any child who
35 is the subject of such an order may petition the court for a review and redetermination of its
36 decision. The department shall bear the burden of showing by clear and convincing evidence
37 that the best interests of one or more siblings continues to require the suspension of visits and
38 contact.

39 If the court authorizes the suspension of visits or other contact between siblings or half-
40 siblings, the department shall make ongoing efforts to remedy the problems that led to the
41 suspension. The department shall document its efforts in the case plan.

42 The court shall review and enter any applicable orders regarding sibling visits and other
43 contact regularly, including upon any change of placement or custody of a child and at each
44 permanency hearing under section 29B.

45 (2) If the court enters an order dispensing with the need for consent of any person named
46 in section 2 of chapter 210 to the adoption, custody, guardianship or other disposition of a child
47 named in the petition, it shall ensure that such order provides for regular and frequent visits and
48 other contact between siblings and half-siblings after entry of the order, including visits and
49 other contact following adoption, guardianship or other custodial disposition of one or more
50 siblings or half-siblings.

51 (3) The court may make any order regarding visits and other contact between siblings
52 and half-siblings under this section in the children's best interests notwithstanding the provisions
53 of section 21 of this chapter.