HOUSE DOCKET, NO. 943 FILED ON: 1/19/2011

HOUSE . . . . . No. 451

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 visitation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	*11th Middlesex*
Katherine M. Clark	*Middlesex and Essex*
Marc T. Lombardo	*22nd Middlesex*
George T. Ross	*2nd Bristol*
Chris Walsh	*6th Middlesex*
Michael F. Rush	*Suffolk and Norfolk*
Elizabeth A. Poirier	*14th Bristol*
Sheila C. Harrington	*1st Middlesex*
Steven L. Levy	*4th Middlesex*
Carl M. Sciortino, Jr.	*34th Middlesex*

HOUSE DOCKET, NO. 943 FILED ON: 1/19/2011

HOUSE . . . . . No. 451

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 451) of Kay Khan and others relative to sibling visitation and court department placements. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to sibling visitation.

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

Notwithstanding any general or special law to the contrary, in MGL.119.26B delete subsection (b) and replace it with the following

(b)The court or the department shall, whenever reasonable and practical and based upon a determination of the best interests of the child, ensure that children placed in foster care shall have access to and visitation with their siblings and vice versa. For the purpose of this section, "sibling" is defined as a person of any age who is related to the child through at least one common parent, including stepsiblings and adoptive siblings in other foster or pre-adoptive homes or in the homes of parents or extended family members throughout the child or sibling's period of placement in the care and custody of the department, or after such placements, if the children or their siblings are separated through adoption or long-term or short-term placements in foster care.

The court or the department shall determine, at the time of the initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive or adoptive care, that sibling visitation rights be implemented through a schedule of visitations or supervised visitations, to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, the sibling and the child, if reasonable, and other parties who are relevant to the preservation of sibling relationships and visitation rights.

Prior to, or simultaneously with, the entry of the adoption decree entered pursuant to section 2 of chapter 210 of the general laws, a court may order sibling visitation intended to be enforceable post-adoption, with or without the consent of the biological parents, foster parents, adoptive parents or department responsible for a child or sibling. However, notwithstanding the existence of any such court order for post-adoption visitation between a child and his/her sibling, the adoption decree shall be final.

25 A child in foster care or sibling of a child placed voluntarily under clause (1) of
26 subsection (a) of section 23 or under an adoption surrender under section 2 of chapter 210, who
27 is denied visitation rights by the department, may appeal through the department's fair hearing
28 process. The child or sibling may appeal the decision reached through the department's fair
29 hearing process by filing a petition in the probate and family court for visitation. That child or
30 sibling shall have the right to court review by trial de novo.

31 For children in the custody of the department pursuant to petition under this chapter, a
32 child, sibling, parent, legal guardian or the department may file a petition for sibling visitation in
33 the court committing the child to the custody of the department.

34 Periodic reviews shall evaluate the effectiveness and appropriateness of sibling
35 visitations.