HOUSE DOCKET, NO. 259 FILED ON: 1/9/2013

HOUSE . . . . . No. 1414

The Commonwealth of Massachusetts

PRESENTED BY:

Louis L. Kafka

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 special juveniles.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Louis L. Kafka	*8th Norfolk*
Ellen Story	*3rd Hampshire*
Lori A. Ehrlich	*8th Essex*
Tom Sannicandro	*7th Middlesex*
Carl M. Sciortino, Jr.	*34th Middlesex*
Daniel A. Wolf	*Cape and Islands*
Denise Provost	*27th Middlesex*
Antonio F. D. Cabral	*13th Bristol*
Jay R. Kaufman	*15th Middlesex*
Michael J. Barrett	*Third Middlesex*
Ruth B. Balser	*12th Middlesex*
Carlo Basile	*1st Suffolk*
Katherine M. Clark	*Fifth Middlesex*
Frank I. Smizik	*15th Norfolk*
Mary S. Keefe	*15th Worcester*
John J. Binienda	*17th Worcester*
Michael D. Brady	*9th Plymouth*
Thomas P. Conroy	*13th Middlesex*

James B. Eldridge	*Middlesex and Worcester*
Jonathan Hecht	*29th Middlesex*
Kay Khan	*11th Middlesex*
Benjamin Swan	*11th Hampden*

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HOUSE . . . . . No. 1414

By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 1414) of Louis L. Kafka and others relative to petitions to the Juvenile Court or Probate Court on behalf of certain special juveniles. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2225* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to special juveniles.

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. Said chapter 119 of the General Laws, as so appearing, is hereby further amended by adding the following new section:--

Section 39DD. (a) For the purposes of this section, the term "dependent on the court" shall mean subject to the jurisdiction of the court for the findings, orders, and referrals enumerated in this section but shall not constitute a finding of legal incompetence.

(b) The divisions of the probate and family court department shall hear petitions of persons, who have attained the age of 18 but remain under the age of 21, seeking a determination that, as a result of abuse, neglect, or abandonment that the petitioner suffered as a child, it is in the best interest of the petitioner not to return to the petitioner's or the petitioner's parent's previous country of nationality or country of last habitual residence.

(c) Upon reviewing the petition and any supporting affidavits, the court shall issue findings of fact which (1) declare the petitioner dependent upon the court as defined in this section; (2) determine whether the petitioner suffered as a child from abuse, neglect or abandonment as those terms are defined in 110 CMR 2.00, chapter 119 or in section 3 of chapter 210 of the General Laws; (3) determine whether reunification with one or both parents is not viable due to the abuse, neglect, or abandonment; and (4) determine whether as a result of the

17 abuse, neglect or abandonment, it is not in the petitioner's best interest to be returned to the
18 petitioner's or the petitioner's parent's previous country of nationality or country of last habitual
19 residence.

20 The health and safety of the petitioner shall be of paramount, but not exclusive, concern
21 in the above determinations. When considering the health and safety of the petitioner, the court
22 shall consider whether the petitioner's present or past living conditions will adversely affect his
23 physical, mental, moral or emotional health.

24 (d) The petitioner under this section may also request orders necessary to protect against
25 further abuse, including, but not limited to, filing a complaint for an abuse prevention order as
26 set out in chapter 209A of the General Laws.

27 (e) The court may refer the petitioner to a probation officer for assistance and such officer
28 shall have the authority to make referrals to an appropriate public or private organization or
29 person for psychiatric, psychological, educational, occupational, medical, dental or social
30 services. The petitioner may not be compelled to participate in the referrals.

31 (f) The court shall hear the petition and issue the findings of fact under this section before
32 the petitioner attains the age of 21.

33 (g) Nothing in this section shall be construed to prevent the divisions of the probate and
34 family court department or the juvenile court department from issuing similar findings of fact to
35 those in subsection (c) in any proceedings related to a child.