

HOUSE No. 1674

The Commonwealth of Massachusetts

PRESENTED BY:

Susannah M. Whipps Lee, (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 relative to visitation by relatives of minor children in DCF custody.

PETITION OF:

NAME:

Lori Fortin

DISTRICT/ADDRESS:

39 Euclid St. Athol Ma. 01331

HOUSE No. 1674

By Mrs. Whipps Lee of Athol (by request), a petition (accompanied by bill, House, No. 1674) of Lori Fortin relative to visitation by relatives of minor children in the custody of the Department of Children and Families. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to visitation by relatives of minor children in DCF custody.

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. Section 26B of chapter 119 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
3 the following section:-

4 Section 26B. (a) For purposes of this section, the term “relative” shall mean a sibling,
5 grandparent, great-grandparent, an aunt, an uncle, a great aunt or a great uncle or any kin as
6 defined by the family of origin and the child.

7 Whenever a child is placed in family foster care, the court and the department shall
8 ensure that a relative of a child who is in the department's care or is the subject of a petition
9 under this chapter shall, upon that relative’s request, have access to reasonable visitation and that
10 the department establish a schedule for that visitation, unless it is determined by the court or the
11 department that relative visitation is not in the child's best interests. In determining the best
12 interests of the child, the court or the department shall consider the goal of the service plan and

13 the relationship between the relative and the child's parents or legal guardian. Upon
14 recommendation by the department or on its own accord, the court may establish reasonable
15 conditions governing relative visitation, including requiring that the relative be restrained from
16 revealing the whereabouts of the child's placement.

17 A relative of a child who is placed with the department voluntarily under clause (1) of
18 subsection (a) of section 23 or placed in the custody of the department under an adoption
19 surrender under section 2 of chapter 210, who is denied relative visitation by the department,
20 may appeal through the department's fair hearing process. A relative may appeal the decision
21 reached through the department's fair hearing process by filing a petition in the probate and
22 family court for relative visitation. That relative shall have the right to court review by trial de
23 novo.

24 A relative of a child who is the subject of a petition under this chapter and placed in the
25 custody of the department may file a petition for visitation in the court which has committed the
26 child to the custody of the department.

27 SECTION 2. Subsection (d) of said section 26B of said chapter 119, as so appearing, is
28 hereby amended by striking out the word "grandparent", in line 68, and inserting in place thereof
29 the following word:- relative.

30 SECTION 3. Said chapter 119 is hereby amendment by striking section 39D, as so
31 appearing, and inserting in place thereof the following section:-

32 Section 39D. (a) For purposes of this section, the term "relative" shall mean a
33 grandparent, an aunt, an uncle, a great aunt or a great uncle.

34 (b) If the parents of an unmarried minor child are divorced, married but living apart,
35 under a temporary order or judgment of separate support, or if either or both parents are
36 deceased, or if said unmarried minor child was born out of wedlock whose paternity has been
37 adjudicated by a court of competent jurisdiction or whose father has signed an acknowledgement
38 of paternity, and the parents do not reside together, a relative of such minor child shall be granted
39 reasonable visitation rights, not less than 2 visits per month, to the minor child during the child's
40 minority by the probate and family court department of the trial court upon a written finding that
41 such visitation rights would be in the best interest of the said minor child; provided, however,
42 that such adjudication of paternity or acknowledgment of paternity shall not be required in order
43 to proceed under this section where maternal relatives are seeking such visitation rights. No such
44 visitation rights shall be granted if said minor child has been adopted by a person other than a
45 stepparent of such child and any visitation rights granted pursuant to this section prior to such
46 adoption of the said minor child shall be terminated upon such adoption without any further
47 action of the court.

48 (c) The relative of a minor child who has been adopted by a person other than a
49 stepparent of the minor child, shall be granted reasonable visitation rights, not less than 2 visits
50 per month, to the minor child during the child's minority by the probate and family court
51 department of the trial court upon a finding that such visitation rights would be in the best
52 interest of the minor child.

53 (d) If the child presently resides within the commonwealth, a petition for visitation
54 pursuant to this section may be filed in the county where the child resides or the county where
55 the petitioner resides.