SENATE DOCKET, NO. 992 FILED ON: 1/15/2015

# SENATE . . . . . No. 902

## The Commonwealth of Massachusetts

PRESENTED BY:

***Karen E. Spilka***

*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 rescinding an order terminating parental rights.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Karen E. Spilka* | *Second Middlesex and Norfolk* |

SENATE DOCKET, NO. 992 FILED ON: 1/15/2015

# SENATE . . . . . No. 902

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 902) of Karen E. Spilka for legislation to rescind an order terminating parental rights. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *798* OF 2013-2014.]

## The Commonwealth of Massachusetts

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

An Act rescinding an order terminating 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:*

SECTION 1. Section 3 of chapter 210 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

(e) If at least two years have passed since the court entered an order under this chapter or chapter 119 terminating parental rights, the child whose parents were the subject of that order may file a motion requesting that the court vacate the order with respect to one or both of the child's former parents, but only if all of the following apply:

i. The child is at least 12 years of age.

ii. The court has determined after a hearing under section 29B of chapter 119 that adoption is no longer the permanency plan for the child.

10 iii. Either the child has not been adopted or, if the child has been adopted, a court has
11 entered an order terminating the parental rights of the child's adoptive parents or the adoptive
12 parents have voluntarily surrendered their parental rights.

13 The child shall sign the motion in the absence of a showing of good cause as to why the
14 child could not do so. The court shall order that an evidentiary hearing be held and give notice
15 of the hearing to whichever of the child's former parents the motion relates, with notice being
16 provided in the manner prescribed for a petition filed under section 24. Neither parent shall be
17 considered a party for the purpose of the motion, nor shall either have an independent right to be
18 heard, though a parent's testimony may be offered into evidence if the parent is called as a
19 witness by a party. The court shall grant the motion if it determines by a preponderance of
20 evidence that vacating the order terminating parental rights is in the child's best interests. The
21 court shall specify in writing the factual basis for its determination. As soon as practicable after
22 granting the motion, the court shall enter a new dispositional order under section 26(b), provided
23 that the order is in the best interests of the child. For the purposes of this paragraph, the term
24 "child" includes a young adult as defined in section 21 of chapter 119.

25 SECTION 2. Section 1 of this act shall apply regardless of whether the two year
26 requirement is met before, on, or after the effective date of this act.