SENATE DOCKET, NO. 1830 FILED ON: 1/21/2011

SENATE . . . . . No. 31

The Commonwealth of Massachusetts

PRESENTED BY:

Gale D. Candaras

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 requiring child and parent involvement in permanency and placement planning.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Gale D. Candaras	
Cory Atkins	*14th Middlesex*
Kenneth J. Donnelly	
James E. Timilty	
Denise Provost	*27th Middlesex*
Benjamin Swan	*11th Hampden*

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SENATE . . . . . No. 31

By Ms. Candaras, a petition (accompanied by bill, Senate, No. 31) of Gale D. Candaras, Cory Atkins, Kenneth J. Donnelly, James E. Timilty and other members of the General Court for legislation to require child and parent involvement in permanency and placement planning . Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act requiring child and parent involvement in permanency and placement planning.

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 51B (c) of chapter 119 is hereby amended by striking the text and inserting in place thereof the following:

(c) If the department has reasonable cause to believe a child's health or safety is in immediate danger from abuse or neglect, the department shall take a child into immediate temporary custody if it has reasonable cause to believe that the removal is necessary to protect the child from abuse or neglect. The investigation and evaluation shall commence within 2 hours of initial contact and an interim report with an initial determination regarding the child's safety and custody shall be completed as soon as possible but not more than 24 hours after initial contact. The final report required under this section shall be complete within five business days of initial contact. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition under section 24 on the next court day.

13 Each child who is age 7 or older shall be given a meaningful opportunity to
14 participate in the development of the case plan and to state his or her preference(s) for initial and
15 any subsequent placement or custody. The department shall ask any child who is age 7 or older
16 to provide the names of any kin or other adults with whom the child has a relationship. Further,
17 the department shall ask any child who is 7 or older, in private, to state his or her preference(s)
18 for initial and any subsequent placement or custody.

19 Each parent shall also be asked to provide the name of kin or other adults with
20 whom the child or the family has a relationship who could serve as a potential placement for the
21 child. Each parent shall also be given a meaningful opportunity to participate in the development
22 of the case plan and to state his or her preference(s) for initial and any subsequent placement or
23 custody of his or her child.

24 If the department has or is seeking custody of a child, the department shall first
25 investigate the possibility of placing the child in accordance with the placement preferences of
26 the child and/or parent(s).The department shall complete that investigation before placing the
27 child except in the case of an emergency placement, in which case the department shall make
28 every effort to complete the investigation within 48 hours after the placement, and make
29 placement changes as appropriate based on the outcome of that investigation. Specific reasons
30 for placement decisions must be documented in writing in the case file, including the reasons for
31 rejecting placements identified by the child and/or parent(s).

32 SECTION 2. Section 51B (e) of chapter 119 is hereby amended by striking the
33 text and inserting in place thereof the following:

34 (e) Notwithstanding subsection (c), whenever the department has reasonable cause to
35 believe that removal is necessary to protect a child from abuse or neglect, it shall take the child
36 into immediate temporary custody. If a child is taken into immediate temporary custody, the
37 department shall make a written report stating the reasons for such removal and shall file a care
38 and protection petition under section 24 on the next court day.

39 Each child who is age 7 or older shall be given a meaningful opportunity to participate in
40 the development of the case plan and to state his or her preference(s) for initial and any
41 subsequent placement or custody. The department shall ask any child who is age 7 or older to
42 provide the names of any kin or other adults with whom the child has a relationship. Further, the
43 department shall ask any child who is 7 or older, in private, to state his or her preference(s) for
44 initial and any subsequent placement or custody.

45 Each parent shall also be asked to provide the name of kin or other a with whom the child
46 or the family has a relationship who could serve as a potential placement for the child. Each
47 parent shall also be given a meaningful opportunity to participate in the development of the case
48 plan and to state his or her preference(s) for initial and any subsequent placement or custody of
49 his or her child.

50 If the department has or is seeking custody of a child, the department shall first
51 investigate the possibility of placing the child in accordance with the placement preferences of
52 the child and/or parent(s).The department shall complete that investigation before placing the
53 child, and make placement changes as appropriate based on the outcome of that investigation.
54 Specific reasons for placement decisions must be documented in writing in the case file,
55 including the reasons for rejecting placements identified by the child and/or parent(s).

56 SECTION 3. Section 51B (g) of Chapter 119 is hereby amended by striking
57 the text and inserting in place thereof the following:

58 (g) The department shall offer appropriate services to the family of any child
59 which it has reasonable cause to believe is suffering from any of the conditions described in the
60 report to prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize
61 family life whenever possible. If the family declines or is unable to accept or to participate in the
62 offered services, the department or any person may file a care and protection petition under
63 section 24.

64 Each family assessment and service plan must document the involvement of the parents
65 or guardians and children age 7 or older, including children in the custody of the department and
66 their siblings or half-siblings and children placed by a court in the custody or under the
67 guardianship of a relative or other suitable person, in the development of the plan. Such efforts
68 must include, but are not limited to: (a) Encouraging the parents or guardian and the children to
69 participate in the development and review of the plan and attempting to obtain the parents' or
70 guardian's signatures documenting their review of the plan (b) obtaining information through
71 separate and private conversations from the child and the parents about potential kin or other
72 adults with whom the child or the family has a relationship who could serve as a placement for
73 the child and (c) If either the parents or child is not involved in the development of the plan, the
74 reasons must be documented.

75 SECTION 4. Section 23 (c) of Chapter 119 is hereby amended by striking the text and
76 inserting in place thereof the following:

77 (c) Whenever the department places a child in foster care, the department shall
78 immediately commence a search to locate any relative of the child or other adult person who has
79 played a significant positive role in that child's life in order to determine whether the child may
80 appropriately be placed with that relative or person if, in the judgment of the department, that
81 placement would be in the best interest of the child.

82 Each child who is age 7 or older shall be given a meaningful opportunity to participate in
83 the development of the case plan and to state his or her preference(s) for initial and any
84 subsequent placement or custody. The department shall ask any child who is age 7 or older to
85 provide the names of any kin or other adults with whom the child has a relationship. Further, the
86 department shall ask any child who is 7 or older, in private, to state his or her preference(s) for
87 initial and any subsequent placement or custody.

88 Each parent shall also be asked to provide the name of kin or other adult with whom the
89 child or the family has a relationship who could serve as a potential placement for the child. Each
90 parent shall also be given a meaningful opportunity to participate in the development of the case
91 plan and to state his or her preference(s) for initial and any subsequent placement or custody of
92 his or her child.

93 If the department has or is seeking custody of a child, the department shall first
94 investigate the possibility of placing the child in accordance with the placement preferences of
95 the child and/or parent(s).The department shall complete that investigation before placing the
96 child and make placement changes as appropriate based on the outcome of that investigation.
97 Specific reasons for placement decisions must be documented in writing in the case file,
98 including the reasons for rejecting placements identified by the child and/or parent(s).

99 The department shall also seek to identify any minor sibling or half-sibling of the child
100 and attempt to place these children in the same foster family if, in the judgment of the
101 department, that placement would be in the best interests of the children.

102 SECTION 5. Section 29 of Chapter 119 is hereby amended by striking the text
103 and inserting in place thereof the following:

104 Whenever an adult with mental retardation who is the responsibility of the department or
105 a child is before any court under clause (3) of subsection (a) of section 23, or sections 24 to 27,
106 inclusive, this section or section 29B, that adult or child shall have and be informed of the right
107 to counsel at all hearings and that the court shall appoint counsel for that adult or child if the
108 adult or child is not able to retain counsel.

109 Whenever the department or a licensed child placement agency is a party to child custody
110 proceedings, the parent, guardian or custodian of the adult with mental retardation or the child:
111 (i) shall have and be informed of the right to counsel at all such hearings, including proceedings
112 under sections 5 and 14 of chapter 201, and that the court shall appoint counsel if he is
113 financially unable to retain counsel; and (ii) shall have and be informed of the right to a service
114 plan or case plan for the adult with mental retardation or child and his family which complies
115 with applicable state and federal laws and regulations for these plans. The probate and family
116 court and the juvenile court departments of the trial court shall establish procedures for: (i)
117 notifying the parent, guardian or custodian of these rights; and (ii) appointing counsel for an
118 indigent parent, guardian or custodian within 14 days of a licensed child placement agency filing
119 or appearing as a party in any such action. The department or agency shall provide a copy of the
120 service or case plan to the parent, guardian or custodian of the adult with mental retardation or

121 child and to the attorneys for all parties appearing in the proceeding within 45 days of the
122 department or agency filing an appearance in such proceeding. Thereafter, any party may have
123 the original or changed plan introduced as evidence, and with the consent of all parties the plan
124 shall be filed with the court. Notwithstanding this section, the court may make such temporary
125 orders as may be necessary to protect the adult with mental retardation or the child and society.

126 Before any non-emergency change in a child's placement or any non-emergency
127 hospitalization, and no later than one business day after any emergency change in a child's
128 placement or any emergency hospitalization, the department shall provide notice of the change in
129 placement to the child's attorney, the parents' attorneys, and the probation department.

130 The department, upon its request, shall be represented by the district attorney for the
131 district in which the case is being heard.