

HOUSE No. 118

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 adoption of the accompanying bill:

An Act regarding sibling visits in child welfare cases.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/16/2013</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>	<i>1/28/2013</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>1/28/2013</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>1/17/2013</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>	<i>1/26/2013</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>1/16/2013</i>

HOUSE No. 118

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 118) of Kay Khan and others relative to sibling visits in child welfare cases. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act regarding sibling visits in child welfare cases.

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

1 An Act Regarding Sibling Visits in Child Welfare Cases.

2 SECTION 1. Section 26B of chapter 119 of the General Laws, as appearing in the 2010
3 Official Edition, is hereby amended by striking out subsection (b) and inserting in place thereof
4 the following:-

5 (b) (1) The court and the department, with respect to any child in or under the
6 department’s care, custody or responsibility, or the court, with respect to any other child who is
7 subject to its jurisdiction, shall ensure that the child, regardless of where he or she resides, has
8 regular and frequent visits and other contact with all siblings and half-siblings from whom the
9 child has been separated through department placements, through adoption, guardianship or
10 other custodial arrangements, or through restoration of a parent’s custody.

11 Immediately upon any separation of siblings or half-siblings, the court shall ensure that
12 regular, frequent and meaningful visits and other contact are scheduled and provided, to be
13 arranged and monitored through the appropriate public or private agency, and with the
14 participation of the department, the foster, pre-adoptive or adoptive parents, the siblings’ or half-
15 siblings’ parents, any other caretakers, custodians or guardians of the children, and the child, if
16 reasonable, and other individuals who are relevant to the preservation of sibling relationships and
17 visitation rights.

18 A child or sibling or half-sibling of a child placed voluntarily under clause (1) of
19 subsection (a) of section 23 or under an adoption surrender under section 2 of chapter 210, who
20 is not provided visits by the department, may appeal through the department’s fair hearing

21 process. The child or sibling may appeal the decision reached through the department's fair
22 hearing process by filing a petition in the probate and family court for visits. The child or sibling
23 may file a petition in the probate and family court for visits if there is no decision from a
24 department fair hearing officer within 60 days of the request for relief. The petitioning child or
25 sibling shall have the right to court review by trial de novo.

26 With respect to two or more siblings or half-siblings within the same proceeding under
27 sections 23, 24

28 or 39M of this chapter or sections 2 or 3 of chapter 210, any party may file a motion for
29 sibling visitation and shall serve such motion on all parties to the proceeding. If a party to such a
30 proceeding seeks sibling visitation with a child who is not subject to the court's jurisdiction in
31 the same proceeding, such party shall file a petition for visitation, and the respondent sibling or
32 half-sibling and such sibling or half-sibling's parent, adoptive parent, guardian or other legal
33 custodian shall become parties to the underlying proceeding for the limited purpose of the
34 petition for visitation. Any such petition shall be served by personal service upon the parent,
35 adoptive parent, guardian or other legal custodian of the child, and by first class mail on all other
36 parties to the action under this chapter or chapter 210. A sibling or half-sibling who is not
37 subject to the jurisdiction of the court under sections 23, 24 or 39E of this chapter or sections 2
38 or 3 of chapter 210, or a parent, adoptive parent, guardian or other legal custodian of such sibling
39 or half-sibling on that person's behalf, may file a petition for visitation with a sibling or half-
40 sibling who is subject to the jurisdiction of the court under said sections, and shall thereby
41 become a party to the underlying proceeding for the limited purpose of the petition for visitation.
42 Any such petition shall be served by personal service upon the parent, adoptive parent, guardian
43 or other legal custodian of the child, unless the legal guardian of the child is the department in
44 which case service shall be by first class mail to the child's social worker, and by first class mail
45 on all other parties to the action under this chapter or chapter 210.

46 Visits and other contact are presumptively in the best interests of siblings and half-
47 siblings. If the department shows by clear and convincing evidence that sibling visits or other
48 contact are detrimental to the welfare of one or more siblings, the court may suspend such visits
49 or such other contact. The court shall make specific findings to support such suspension. Any
50 child who is the subject of such an order may petition the court for a review and redetermination
51 of its decision. The department shall bear the burden of showing by clear and convincing
52 evidence that the best interests of one or more siblings continues to require the suspension of
53 visits and contact.

54 If the court authorizes the suspension of visits or other contact between siblings or half-
55 siblings, the department shall make ongoing efforts to remedy the problems that led to the
56 suspension. The department shall document its efforts in the case plan.

57 The court shall review and enter any applicable orders regarding sibling visits and other
58 contact regularly, including upon any change of placement or custody of a child and at each
59 permanency hearing under section 29B.

60 (2) If the court enters an order dispensing with the need for consent of any person named
61 in section 2 of chapter 210 to the adoption, custody, guardianship or other disposition of a child
62 named in the petition, it shall ensure that such order provides for regular and frequent visits and
63 other contact between siblings and half-siblings after entry of the order, including visits and
64 other contact following adoption, guardianship or other custodial disposition of one or more
65 siblings or half-siblings.