

**HOUSE . . . . . No. 1414**

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**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:       | DATE ADDED:      |
|-------------------------------|-------------------------|------------------|
| <i>Louis L. Kafka</i>         | <i>8th Norfolk</i>      |                  |
| <i>Ellen Story</i>            | <i>3rd Hampshire</i>    |                  |
| <i>Lori A. Ehrlich</i>        | <i>8th Essex</i>        |                  |
| <i>Tom Sannicandro</i>        | <i>7th Middlesex</i>    |                  |
| <i>Carl M. Sciortino, Jr.</i> | <i>34th Middlesex</i>   |                  |
| <i>Daniel A. Wolf</i>         | <i>Cape and Islands</i> |                  |
| <i>Denise Provost</i>         | <i>27th Middlesex</i>   | <i>1/29/2013</i> |
| <i>Antonio F. D. Cabral</i>   | <i>13th Bristol</i>     | <i>2/1/2013</i>  |
| <i>Jay R. Kaufman</i>         | <i>15th Middlesex</i>   |                  |
| <i>Michael J. Barrett</i>     | <i>Third Middlesex</i>  |                  |
| <i>Ruth B. Balsler</i>        | <i>12th Middlesex</i>   |                  |
| <i>Carlo Basile</i>           | <i>1st Suffolk</i>      |                  |
| <i>Katherine M. Clark</i>     | <i>Fifth Middlesex</i>  |                  |
| <i>Frank I. Smizik</i>        | <i>15th Norfolk</i>     |                  |
| <i>Mary S. Keefe</i>          | <i>15th Worcester</i>   |                  |
| <i>John J. Binienda</i>       | <i>17th Worcester</i>   |                  |
| <i>Michael D. Brady</i>       | <i>9th Plymouth</i>     |                  |
| <i>Thomas P. Conroy</i>       | <i>13th Middlesex</i>   |                  |

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|--------------------------|--------------------------------|--|
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> |  |
| <i>Jonathan Hecht</i>    | <i>29th Middlesex</i>          |  |
| <i>Kay Khan</i>          | <i>11th Middlesex</i>          |  |
| <i>Benjamin Swan</i>     | <i>11th Hampden</i>            |  |

**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:*

1 SECTION 1. Said chapter 119 of the General Laws, as so appearing, is hereby further  
2 amended by adding the following new section:--

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

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

11 (c) Upon reviewing the petition and any supporting affidavits, the court shall issue  
12 findings of fact which (1) declare the petitioner dependent upon the court as defined in this  
13 section; (2) determine whether the petitioner suffered as a child from abuse, neglect or  
14 abandonment as those terms are defined in 110 CMR 2.00, chapter 119 or in section 3 of chapter  
15 210 of the General Laws; (3) determine whether reunification with one or both parents is not  
16 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.