

SENATE No. 798

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:

Karen E. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

SENATE No. 798

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 798) of Karen E. Spilka for legislation to rescind an order terminating parental rights. The Judiciary.

The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen
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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:

1 SECTION 1. Section 3 of chapter 210 of the General Laws, as most recently amended by
2 Chapter 93 of the Acts of 2011, is hereby further amended by inserting at the end thereof the
3 following paragraph:-

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

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

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

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

14 The child shall sign the motion in the absence of a showing of good cause as to why the
15 child could not do so. The court shall order that an evidentiary hearing be held and give notice
16 of the hearing to whichever of the child’s former parents the motion relates, with notice being
17 provided in the manner prescribed prescribed for a petition filed under section 24. Neither parent
18 shall be considered a party for the purpose of the motion, nor shall either have an independent
19 right to be heard, though a parent’s testimony may be offered into evidence if the parent is called
20 as a witness by a party. The court shall grant the motion if it determines by a preponderance of

21 evidence that vacating the order terminating parental rights is in the child's best interests. The
22 court shall specify in writing the factual basis for its determination. As soon as practicable after
23 granting the motion, the court shall enter a new dispositional order under section 26(b), provided
24 that the order is in the best interests of the child. For the purposes of this paragraph, the term
25 "child" includes a young adult as defined in section 21 of chapter 119.

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