

SENATE No. 2043

Senate, November 2, 2015 -- Recommended new draft (Senators Flanagan and Tarr) for the Senate Bill relative to the re-homing of children (Senate, No. 75)

The Commonwealth of Massachusetts

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

An Act relative to the re-homing of children.

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 1A of chapter 15D of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the definition of “department” the
3 following 2 definitions:-

4 “Disruption”, an adoption process that ends after the child is placed in an adoptive home
5 and before the adoption is legally finalized.

6 “Dissolution”, an adoption in which the legal relationship between the adoptive parent
7 and adoptive child is severed, either voluntarily or involuntarily, after the adoption is legally
8 finalized.

9 SECTION 2. Section 6 of said chapter 15D, as so appearing, is hereby amended by
10 striking out, in lines 44 and 45, the words “in a newspaper distributed in the commonwealth”.

11 SECTION 3. Said section 6 of said chapter 15D, as so appearing, is hereby further
12 amended by striking out, in lines 45 and 46, the words “on a radio or television station”.

13 SECTION 4. Said section 6 of said chapter 15D, as so appearing, is hereby further
14 amended by adding the following 5 subsections:-

15 (f) A placement agency shall provide prospective adoptive parents with all relevant
16 information about a child to enable the prospective adoptive parent to knowledgeably determine
17 whether to accept the child for adoption. Relevant information shall include, but not be limited
18 to, all mental, emotional, behavioral or physical health issues of the child and the child's birth
19 family, any prior placement history and any other information which would be relevant to the
20 growth and development of the child.

21 (g) A placement agency shall make available, either directly or by referral, post-adoption
22 services to adoptive parents and adopted children to avoid disruption or dissolution of the
23 adoption. The services shall include, but not be limited to:

24 (i) factual information pertaining to adoption services provided at the placement agency;

25 (ii) counseling concerning adoption related issues such as identity, roles and
26 relationships;

27 (iii) counseling and other services which support placements;

28 (iv) assistance in joining or developing support groups;

29 (v) information regarding health care coverage for the child through the state; and

30 (vi) general information regarding current adoption issues, practices and laws.

31 If the services are being offered by referral, the placement agency shall provide a list of
32 agencies that provide such services to adoptive parents.

33 (h) The adoptive parent shall contact the placement agency that facilitated the adoption if
34 there is a disruption or dissolution of an adoption or any potential disruption or dissolution of an
35 adoption or in the event that the adoptive parent can no longer adequately care for the child.
36 Upon notification by the adoptive parent, the placement agency that facilitated the adoption shall
37 contact the department of children and families. If the placement agency that facilitated the
38 adoption is no longer in operation or not reachable, the adoptive parent shall contact the
39 department of children and families.

40 (i) The department of early education and care shall create a uniform orientation
41 curriculum for adoptive parent applicants. All placement agencies shall provide this orientation
42 for adoptive parent applicants and all adoptive parent applicants shall participate. The curriculum
43 shall include a minimum number of hours to be completed as part of the orientation and shall
44 include, at a minimum, specific information for adoptive parent applicants seeking to adopt
45 international children and notice of section 11A of chapter 210.

46 SECTION 5. Said chapter 15D is hereby further amended by striking out section 15, as
47 so appearing, and inserting in place thereof the following section:-

48 Section 15. (a) As used in this section, the term “published” shall include, but not be
49 limited to, any computerized communication system including electronic mail, internet site,
50 internet profile or any similar medium of communication provided via the internet.

51 (b) Any person or entity, unless acting as a duly authorized agent or employee of the
52 department of children and families or a licensed placement agency, who causes to be published,
53 disseminated or broadcast in the commonwealth, an advertisement or notice for the placement or
54 reception of a child under 18 years of age, or in any way offers to place or locate children offered

55 or wanted for adoption or any other permanent physical placement, or who holds themselves out
56 in any way as being able to place or locate children for adoption or any other permanent physical
57 placement in violation of subsections (c) or (e) of section 6 shall be punished by a fine of not less
58 than \$5,000 nor more than \$25,000. Any such person who shall accept payment in the form of
59 money or other consideration in return for placing a child for adoption or any other permanent
60 physical placement shall be punished by a fine of not less than \$5,000 nor more than \$30,000, or
61 by imprisonment in a jail or a house of correction for not more than 2 ½ years or in the state
62 prison for not more than 5 years, or by both such fine and imprisonment.

63 (c) Any person who violates subsection (e) of section 6 by causing to be published,
64 disseminated or broadcast in the commonwealth, an advertisement or notice for the placement or
65 reception of a child under 18 years of age for family child care, large family child care, child care
66 center care, school-aged child care program, group residential care or temporary shelter care
67 shall be punished for each violation by a fine of up to \$5,000 or by imprisonment in a jail or a
68 house of correction for not more than 2 ½ years, or by both such fine and imprisonment.

69 (d) Any person who violates subsections (a), (b) or (d) of section 6 shall be punished for
70 each violation by a fine of up to \$5,000 or by imprisonment in a jail or a house of correction for
71 not more than 2 ½ years, or by both such fine and imprisonment.

72 (e) Upon petition of the department, the superior court shall have jurisdiction to enjoin
73 any violation of section 6 or to take other action that equity and justice may require.

74 SECTION 6. The third paragraph of section 6 of chapter 210 of the General Laws, as so
75 appearing, is hereby amended by adding the following sentence:- No decree of adoption shall be
76 entered by the court until the petitioner for adoption has executed an acknowledgement of the

77 criminal penalties available under section 11A for the unauthorized adoption or placement of a
78 child; provided, however, that failure of the court to provide for the execution of such
79 acknowledgement shall not be grounds for per se invalidation of the adoption.

80 SECTION 7. Said chapter 210 of the General Laws is hereby further amended by striking
81 out section 11A, as so appearing, and inserting in place thereof the following section:-

82 Section 11A. (a) As used in this section, the term “published” shall include, but not be
83 limited to, any computerized communication system including electronic mail, internet site,
84 internet profile or any similar medium of communication provided via the internet.

85 (b) Any person or entity, unless acting as a duly authorized agent or employee of the
86 department of children and families or a placement agency licensed under chapter 15D, who
87 causes to be published in the commonwealth, an advertisement or notice of children offered or
88 wanted for adoption or any other permanent physical placement, or in any way offers to place or
89 locate children offered or wanted for adoption or any other permanent physical placement, or
90 who holds themselves out in any way as being able to place or locate children for adoption or
91 any other permanent physical placement or who holds themselves out in any way as being able to
92 approve a family for adoption or the placement of a child shall be punished by a fine of not less
93 than \$5,000 nor more than \$25,000. Any such person who shall accept payment in the form of
94 money or other consideration in return for placing a child for adoption or any other permanent
95 physical placement shall be punished by a fine of not less than \$5,000 and not more than
96 \$30,000, or by imprisonment in jail or a house of correction for not more than 2 ½ years or in the
97 state prison for not more than 5 years, or by both such fine and imprisonment.

98 (c) No person unrelated to a child by blood or marriage, and no organization other than a
99 licensed or approved placement agency, shall receive a child for adoption or any other permanent
100 physical placement following an advertisement in violation of subsection (b). Whoever receives
101 a child to be adopted or placed in any other permanent physical placement in violation of this
102 section, shall be punished by a fine of not less than \$10,000 and not more than \$40,000, or by
103 imprisonment in jail or a house of correction for not more than 2 ½ years or in the state prison
104 for not more than 5 years, or by both such fine and imprisonment.

105 (d) A parent or legal guardian who causes a child to be adopted or placed in any other
106 permanent physical placement, in violation of this section, shall be punished by imprisonment in
107 the state prison for not more than 20 years and by a fine of not more than \$25,000.

108 SECTION 8. (a) There shall be a task force to identify likely channels for abuse,
109 including legal vehicles, in the re-homing of children. The task force shall consist of the
110 following members or their designees: the chief justice of the probate and family court
111 department, who shall serve as chair; the commissioner of early education and care; the
112 commissioner of children and families; the child advocate; the chair of the Children's League of
113 Massachusetts, Inc.; and 2 appointees of the governor, who shall have expertise in child welfare.

114 (b) The task force shall submit a report on likely channels for abuse in the re-homing of
115 children and any recommendations for responding to such potential or actual abuse. The task
116 force shall submit its report, together with any recommended legislation, to the clerks of the
117 house and senate, the chairs of the joint committee on children, families and persons with
118 disabilities and the house and senate committees on ways and means not later than June 30,
119 2016."