HOUSE DOCKET, NO. 2538 FILED ON: 1/19/2017

HOUSE . . . . . No. 2285

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas A. Golden, Jr.

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 parental rights and child survivors of homicide.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Thomas A. Golden, Jr.	*16th Middlesex*	*1/19/2017*
Timothy R. Whelan	*1st Barnstable*	*3/14/2018*
Rady Mom	*18th Middlesex*	*3/14/2018*
Chris Walsh	*6th Middlesex*	*3/14/2018*
Colleen M. Garry	*36th Middlesex*	*3/14/2018*

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HOUSE . . . . . No. 2285

By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 2285) of Thomas A. Golden, Jr., and others relative to parental rights and child survivors of homicide. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1340* OF 2015-2016.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to parental rights and child survivors of homicide.

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. Chapter 119 of the General Laws is amended by inserting the following section after Section 26A as Section 26B; Chapter 208 of the General Laws is amended by inserting the following section as Section 31B after Section 31A; Chapter 209 of the General Laws is amended by inserting the following section after Section 38 as Section 38A; Chapter 209C of the General Laws is amended to insert the following section after Section 10 as Section 10A:-

Conviction of a parent for murder of a child's other parent. In issuing any judgment or temporary order of visitation or custody, the conviction by a court of competent jurisdiction of the parent of a child for murder in the first or second degree of the child's other parent, or conviction for aiding, abetting, attempting, conspiring or soliciting to commit murder in the first

or second degree of the child's other parent, or a comparable crime against the other parent under federal law or the law of any other state, shall create a rebuttable presumption that contact with the child and exercise of parental rights, including but not limited to care and custody of the child, by the convicted parent are not in the child's best interests. This rebuttable presumption may be overcome only if the court determines that:

the child is competent to signify his or her assent and has assented to an order of the court permitting contact between the convicted parent and the child or exercise of parental rights by the convicted parent; or

the crime occurred in the context of past physical, sexual or psychological abuse committed by the other parent against the convicted parent as set forth section 23F of chapter 233, and contact between the child and convicted parent or award of custody, visitation or other rights to the convicted parent is in the child's best interests. If the court determines that the convicted parent has overcome the rebuttable presumption, it shall enter written findings of fact in support of such a determination. This rebuttable presumption applies whether or not the convicted parent has exhausted any right to appeal the conviction, and notwithstanding any order of a court entered prior to the conviction that awarded the convicted parent custody, visitation or other rights related to the child.

Except as authorized and ordered by a court under this section, no person who is a party in any action before the court concerning custody or visitation, shall permit contact with the convicted parent in the presence of the child and no person shall visit, telephone, write to, or otherwise communicate with the convicted parent in the child's presence or deliver messages or other communications between the child and the convicted parent.

SECTION 2. Section 26 of chapter 119 of the General Laws is hereby amended by deleting the period at the end of the last sentence in subsection (4) and adding the following:- ; or (iii) the court hearing the petition finds that the parent of the child was convicted by a court of competent jurisdiction of murder in the first or second degree of the child's other parent, or for aiding, abetting, attempting, conspiring or soliciting to commit murder in the first or second degree of the child's other parent, or a crime against the other parent under federal law or the law of any other state that is comparable to those crimes, and (a) there has been no finding by a court that the crime occurred in the context of past physical, sexual or psychological abuse committed by the other parent against the convicted parent as set forth section 23F of chapter 233; and (b) the child, if competent to signify his assent, has not assented to an order to dispense with the need for consent by the convicted parent to adoption of the child.

SECTION 3. Section 3 of chapter 210 of the General Laws is hereby amended by deleting the period at the end of the sentence that appears before the last sentence of subsection (c) and inserting the following:- ; (iii) the court hearing the petition finds that the parent of the child was convicted of murder by a court of competent jurisdiction in the first or second degree of the child's other parent, or for aiding, abetting, attempting, conspiring or soliciting to commit murder in the first or second degree of the child's other parent, or a crime against the other parent under federal law or the law of any other state that is comparable to those crimes, and (a) there has been no finding by a court that the crime occurred in the context of past physical, sexual or psychological abuse committed by the other parent against the convicted parent as set forth section 23F of chapter 233; and (b) the child, if competent to signify his assent, has not assented to an order to dispense with the need for consent by the convicted parent to adoption of the child.