

HOUSE No. 2341

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey Sánchez

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 making the children of an adjudicated de-facto parent eligible for social security dependent benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>	<i>1/20/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/20/2017</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/20/2017</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/20/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/20/2017</i>

HOUSE No. 2341

By Mr. Sánchez of Boston, a petition (accompanied by bill, House, No. 2341) of Jeffrey Sánchez and others for legislation to allow children of an adjudicated de-facto parent to be eligible for social security dependent benefits. The Judiciary.

The Commonwealth of Massachusetts

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

An Act making the children of an adjudicated de-facto parent eligible for social security dependent benefits.

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 7 of chapter 4 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the word “ancestor”, in line 89, the
3 following words:- , including the children of a de-facto parent who has been adjudicated as such
4 by order, judgment, or judgment by agreement of the Family Court or other court of competent
5 jurisdiction, and their issue.

6 SECTION 2. Said section 7 of said chapter 4, as so appearing, is hereby further amended
7 by adding the following clause:-

8 Sixtieth, “Parent” shall include a parent by birth, adoptive parent, or de-facto parent
9 adjudicated as such by order, judgment, or judgment by agreement of the Family Court or other
10 court of competent jurisdiction.

11 SECTION 3. Section 21 of chapter 119 of the General Laws, as so appearing, is hereby
12 amended by inserting after the ninth paragraph the following paragraph:-

13 “De-facto parent”, a person determined by a court order, judgment, or agreement to be
14 the de-facto parent of a child. Such de-facto parent shall have the standing and rights of parents
15 for purposes of this chapter.

16 SECTION 4. Section 55 of said chapter 119, as so appearing, is hereby amended by
17 striking out the first paragraph and inserting in place thereof the following paragraph:-

18 Section 55. If a child has been summoned to appear or is brought before such court upon
19 a warrant, as provided in section fifty-four, a summons shall be issued to at least one of its
20 parents, if either of them is known to reside within the commonwealth, and, if there is no such
21 parent, then to its lawful guardian, if there is one known to be so resident, and if not, then to a
22 de-facto parent, and if there is no such person, to the person with whom such child resides, if
23 known. Said summons shall require the person served to appear at a time and place stated
24 therein, and show cause why such child should not be adjudged a delinquent child and why it is
25 not in such child's best interest that he be removed from his home and whether reasonable efforts
26 were made to prevent or eliminate the need for removal from his home. If there is no such parent,
27 guardian, de-facto parent, or person who can be summoned as aforesaid, the court may appoint a
28 suitable person to act for such child. A parent, guardian, de-facto parent, or person with whom
29 such child resides who is summoned to appear before the court to show cause why such child
30 shall not be adjudged a delinquent child by reason of having committed the offense of willful or
31 malicious destruction or wanton destruction of property, in violation of the provisions of section
32 one hundred and twenty-seven or one hundred and twenty-seven A of chapter two hundred and

33 sixty-six, and who willfully fails to so appear shall be punished by a fine of not less than two
34 hundred nor more than three hundred dollars.

35 SECTION 5. Section 2-114 of Chapter 190B of the General Laws, as so appearing, is
36 hereby amended by inserting after the word “status”, in line 4, the following words:- , or a de-
37 facto parent who has been adjudicated as such by order, judgment, or judgment by agreement of
38 the Family Court or other court of competent jurisdiction.

39 SECTION 6. Section 28 of Chapter 208 of the General Laws, as so appearing, is hereby
40 amended by striking out the first sentence and inserting in place thereof the following sentence:-

41 Section 28. Upon a judgment for divorce, the court may make such judgment as it
42 considers expedient relative to the care, custody and maintenance of the minor children of the
43 parties and may determine with which of the parents the children or any of them shall remain or
44 may award their custody to a de-facto parent or some other suitable person if it seems expedient
45 or for the benefit of the children.

46 SECTION 7. Said section 28 of said chapter 208, as so appearing, is hereby further
47 amended by inserting after the word “parent”, in line 20, the following words:- or by a de-facto
48 parent.

49 SECTION 8. Said section 28 of said chapter 208, as so appearing, is hereby further
50 amended by inserting after the fourth sentence the following sentence:-

51 In such modification as the court deems appropriate custody may be granted to the de-
52 facto parent or next friend or other suitable person as the court determines is in the best interest
53 of the child.

54 SECTION 9. Section 28A of said chapter 208, as so appearing, is hereby amended by
55 inserting after the word “party”, in line 2, the following words:- or of a de-facto parent.

56 SECTION 10. Said section 28A of said chapter 208, as so appearing, is hereby further
57 amended by inserting after the first sentence the following sentence:-

58 Such temporary orders may grant custody to any of the persons to whom custody may be
59 granted under Section 28 of this chapter.

60 SECTION 11. Section 29 of said chapter 208, as so appearing, is hereby amended by
61 inserting after the word “parent”, in line 5, the following words:- or of a de-facto parent.

62 SECTION 12. Section 30 of said chapter 208, as so appearing is hereby amended by
63 inserting after the word “parents”, in line 6, the following words:- , and any de-facto parent.

64 SECTION 13. Section 31 of said chapter 208, as so appearing, is hereby amended by
65 striking out the first paragraph and inserting in place thereof the following paragraph:-

66 Section 31. For the purposes of this section, the term “parent” shall include a de-facto
67 parent or other suitable person to whom any order of custody is made, including an order by
68 agreement, and the following words shall have the following meaning, unless the context
69 requires otherwise:

70 SECTION 14. Section 1 of Chapter 209B of the General Laws, as so appearing, is hereby
71 amended by inserting after the word “includes”, in line 33, the following words:- a de-facto
72 parent or.

73 SECTION 15. Section 10 of chapter 209C of the General Laws, as so appearing, is
74 hereby amended by inserting after the word “jointly”, in line 3, the following words:- or to a de-
75 facto parent.

76 SECTION 16. Said section 10 of said chapter 209C, as so appearing, is hereby further
77 amended by striking out subsection (d) and inserting in place thereof the following subsection:-

78 (d) If a de-facto parent or other suitable person who is not a parent of the child requests
79 custody, the court may order custody to that person if it is in the best interests of the child and if
80 the written consent of both parents or the surviving parent is filed with the court. Such custody
81 may also be ordered if it is in the best interests of the child and if both parents or the surviving
82 parent are unfit to have custody or if one is unfit and the other files his written consent in court.

83 A parent on notice who does not appear may be defaulted and custody given to the other or to the
84 de-facto parent or other suitable person without the defaulting parent’s consent.