

**SENATE . . . . . No. 41**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Jennifer L. Flanagan***

*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 the re-homing of children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/26/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/31/2017</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>1/31/2017</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/3/2017</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>2/3/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/3/2017</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>2/3/2017</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	<i>2/3/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/3/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/3/2017</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>2/3/2017</i>

**SENATE . . . . . No. 41**

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By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 41) of Jennifer L. Flanagan, Jose F. Tosado, John J. Lawn, Jr., Kimberly N. Ferguson and other members of the General Court for legislation relative to the re-homing of children. Children, Families and Persons with Disabilities.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2050 OF 2015-2016.]

**The Commonwealth of Massachusetts**

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

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 striking out, in line 47, the figure “16” and inserting in place thereof the following  
15 figure:- 18.

16 SECTION 5. Said section 6 of said chapter 15D, as so appearing, is hereby amended by  
17 inserting after subsection (c) the following 2 subsections:-

18 (c<sup>1</sup>/<sub>4</sub>) No person or entity, unless acting as a duly authorized agent or employee of the  
19 department of children and families or a licensed placement agency, shall accept payment in the  
20 form of money or other consideration in return for placing a child for adoption or for any other  
21 temporary placement or permanent physical placement. No person or entity shall knowingly give  
22 payment in the form of money or other consideration to another person or entity, other than a  
23 duly authorized agent or employee of the department of children and families or a licensed  
24 placement agency, for placing a child for adoption or for any other temporary placement or  
25 permanent physical placement. Nothing in this subsection shall prohibit a duly authorized agent  
26 or employee of the department of children and families or a licensed placement agency from  
27 giving subsidies or other benefits for the care and maintenance of such children. For the purposes  
28 of this section, the term “temporary placement” shall not include when the parents or custodians  
29 of a child place that child for a designated short-term period with a specified intent for return of  
30 the child; provided, however, that “short-term period” shall include, but not be limited to, short-

31 term placements due to parental employment, vacations, school-sponsored functions or activities,  
32 incarceration, military service, medical treatment or the incapacity of a parent.

33 (c<sup>1/2</sup>) No person or entity, unless acting as a duly authorized agent or employee of the  
34 department of children and families or a licensed placement agency, shall solicit payment in the  
35 form of money or other consideration in return for placing a child for adoption or for any other  
36 temporary placement or permanent physical placement. No person or entity shall knowingly  
37 offer payment in the form of money or other consideration to another person or entity, other than  
38 a duly authorized agent or employee of the department of children and families or a licensed  
39 placement agency, for placing a child for adoption or for any other temporary placement or  
40 permanent physical placement. Nothing in this subsection shall prohibit a duly authorized agent  
41 or employee of the department of children and families or a licensed placement agency from  
42 offering subsidies or other benefits for the care and maintenance of such children.

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

45 (f) A placement agency shall provide prospective adoptive parents with all relevant  
46 information that the agency holds about a child to enable the prospective adoptive parent to  
47 knowledgeably determine whether to accept the child for adoption. Relevant information shall  
48 include, but not be limited to, all mental, emotional, behavioral or physical health issues of the  
49 child and the child's birth family, any prior placement history and any other information which  
50 would be relevant to the growth and development of the child. The department shall issue  
51 guidelines for placement agencies on the release of relevant and accurate information relative to  
52 a child's mental, emotional and behavioral health.

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

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

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

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

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

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

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

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

65 (h) The adoptive parent shall contact the placement agency that facilitated the adoption if  
66 there is a disruption or dissolution of an adoption or any potential disruption or dissolution of an  
67 adoption or in the event that the adoptive parent can no longer adequately care for the child.

68 Upon notification by the adoptive parent, the placement agency that facilitated the adoption shall  
69 contact the department of children and families. If the placement agency that facilitated the  
70 adoption is no longer in operation or not reachable, the adoptive parent shall contact the  
71 department of children and families.

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

78 SECTION 7. Said chapter 15D is hereby further amended by striking out section 15, as  
79 so appearing, and inserting in place thereof the following section:-

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

83 (b) Any person or entity, unless acting as a duly authorized agent or employee of the  
84 department of children and families or a licensed placement agency, who causes to be published,  
85 disseminated or broadcast in the commonwealth, an advertisement or notice for the placement or  
86 reception of a child under 18 years of age, or in any way offers to place or locate children offered  
87 or wanted for adoption or any other permanent physical placement, or who holds themselves out  
88 in any way as being able to place or locate children for adoption or any other permanent physical  
89 placement in violation of subsections (c) or (e) of section 6 shall be punished by a fine of not less  
90 than \$5,000 nor more than \$25,000.

91 (c) Any person or entity, unless acting as a duly authorized agent or employee of the  
92 department of children and families or a licensed placement agency, who violates subsection  
93 (c/4) of section 6 by accepting payment in the form of money or other consideration in return for

94 placing a child for adoption or for any other temporary placement or permanent physical  
95 placement shall be punished by a fine of not less than \$5,000 nor more than \$30,000, or by  
96 imprisonment in a jail or a house of correction for not more than 2½ years or in a state prison for  
97 not more than 20 years, or by both such fine and imprisonment. Any person or entity who  
98 violates said subsection (c¼) of said section 6 by knowingly giving payment in the form of  
99 money or other consideration to another person or entity, other than a duly authorized agent or  
100 employee of the department of children and families or a licensed placement agency, for placing  
101 a child for adoption or for any other temporary placement or permanent physical placement shall  
102 be punished by a fine of not less than \$5,000 nor more than \$30,000, or by imprisonment in a jail  
103 or a house of correction for not more than 2½ years or in a state prison for not more than 20  
104 years, or by both such fine and imprisonment. For the purposes of this section, the term  
105 “temporary placement” shall not include when the parents or custodians of a child place that  
106 child for a designated short-term period with a specified intent for return of the child; provided,  
107 however, that “short-term period” shall include, but not be limited to, short-term placements due  
108 to parental employment, vacations, school-sponsored functions or activities, incarceration,  
109 military service, medical treatment or the incapacity of a parent.

110 (d) Any person or entity, unless acting as a duly authorized agent or employee of the  
111 department of children and families or a licensed placement agency, who violates subsection  
112 (c½) of section 6 by soliciting payment in the form of money or other consideration for placing a  
113 child for adoption or for any other temporary placement or permanent physical placement shall  
114 be punished by a fine of not less than \$5,000 nor more than \$30,000, or by imprisonment in a jail  
115 or a house of correction for not more than 2½ years or in a state prison for not more than 20  
116 years, or by both such fine and imprisonment. Any person or entity who violates said subsection

117 (c $\frac{1}{2}$ ) of said section 6 by knowingly offering payment in the form of money or other  
118 consideration to another person or entity, other than a duly authorized agent or employee of the  
119 department of children and families or a licensed placement agency, for placing a child for  
120 adoption or for any other temporary placement or permanent physical placement shall be  
121 punished by a fine of not less than \$5,000 nor more than \$30,000, or by imprisonment in a jail or  
122 a house of correction for not more than 2 $\frac{1}{2}$  years or in a state prison for not more than 20 years,  
123 or by both such fine and imprisonment.

124 (e) Any person who violates subsection (e) of section 6 by causing to be published,  
125 disseminated or broadcast in the commonwealth, an advertisement or notice for the placement or  
126 reception of a child under 18 years of age for family child care, large family child care, child care  
127 center care, school-aged child care program, group residential care or temporary shelter care  
128 shall be punished for each violation by a fine of up to \$5,000 or by imprisonment in a jail or a  
129 house of correction for not more than 2  $\frac{1}{2}$  years, or by both such fine and imprisonment.

130 (f) Any person who violates subsections (a), (b) or (d) of section 6 shall be punished for  
131 each violation by a fine of up to \$5,000 or by imprisonment in a jail or a house of correction for  
132 not more than 2  $\frac{1}{2}$  years, or by both such fine and imprisonment.

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

135 SECTION 8. The third paragraph of section 6 of chapter 210 of the General Laws, as so  
136 appearing, is hereby amended by adding the following sentence:- No decree of adoption shall be  
137 entered by the court until the petitioner for adoption has executed an acknowledgement of the  
138 criminal penalties available under section 11A for the unauthorized adoption or placement of a



139 child; provided, however, that failure of the court to provide for the execution of such  
140 acknowledgement shall not be grounds for per se invalidation of the adoption.

141 SECTION 9. Said chapter 210 of the General Laws is hereby further amended by striking  
142 out section 11A, as so appearing, and inserting in place thereof the following section:-

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

146 (b) Any person or entity, unless acting as a duly authorized agent or employee of the  
147 department of children and families or a placement agency licensed under chapter 15D, who  
148 causes to be published in the commonwealth, an advertisement or notice of children offered or  
149 wanted for adoption or any other permanent physical placement, or in any way offers to place or  
150 locate children offered or wanted for adoption or any other permanent physical placement, or  
151 who holds themselves out in any way as being able to place or locate children for adoption or  
152 any other permanent physical placement or who holds themselves out in any way as being able to  
153 approve a family for adoption or the placement of a child shall be punished by a fine of not less  
154 than \$5,000 nor more than \$25,000. Any such person who shall accept payment in the form of  
155 money or other consideration in return for placing a child for adoption or any other permanent  
156 physical placement shall be punished by a fine of not less than five thousand and no more than  
157 thirty thousand dollars, or by imprisonment in jail or house of correction for not more than two  
158 and one-half years or in the state prison for not more than five years, or both.

159 (c) No person unrelated to a child by blood or marriage, and no organization other than a  
160 licensed or approved placement agency, shall receive a child for adoption or any other permanent

161 physical placement following an advertisement in violation of subsection (b). Whoever receives  
162 a child to be adopted or placed in any other permanent physical placement in violation of this  
163 section, shall be punished by a fine of not less than \$10,000 and no more than \$40,000, or by  
164 imprisonment in jail or house of correction for not more than two and one-half years or in the  
165 state prison for not more than five years, or both.

166 (d) A parent or legal guardian who causes a child to be adopted or placed in any other  
167 permanent physical placement, in violation of this section, shall be punished by imprisonment in  
168 the state prison for not less than 5 years nor more than 20 years and by a fine of not more than  
169 \$25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any  
170 person convicted under this section be eligible for probation, parole, work release or furlough or  
171 receive any deduction from his sentence for good conduct until he has served 5 years of such  
172 sentence.

173 SECTION 10. (a) There shall be a task force to identify likely channels for abuse,  
174 including legal vehicles, in the re-homing of children. The task force shall consist of the  
175 following members or their designees: the chief justice of the probate and family court  
176 department, who shall serve as chair; the commissioner of early education and care; the  
177 commissioner of children and families; the chief counsel of the committee for public counsel  
178 services; the attorney general; the child advocate; the chair of the Children's League of  
179 Massachusetts, Inc.; and 2 appointees of the governor, who shall have expertise in child welfare.

180 (b) The task force shall submit a report on likely channels for abuse in the re-homing of  
181 children and any recommendations for responding to such potential or actual abuse including,  
182 but not limited to, developing a system for mandated reporting. The task force shall submit its

183 report, together with any recommended legislation, to the clerks of the house and senate, the  
184 chairs of the joint committee on children, families and persons with disabilities and the house  
185 and senate committees on ways and means not later than June 30, 2018.

186 SECTION 11. (a) There shall be a commission to examine the process of adoptions  
187 facilitated by the commonwealth. The commission shall examine the monetary and temporal cost  
188 of adoption, state regulations and procedures, supports provided for families prior to and after  
189 adoption, educational transitions, issues related to oversight and accountability and best  
190 practices. The commission shall also consider social barriers to adoption and differences between  
191 in-state, national and international adoption processes. The commission shall provide  
192 recommendations for ensuring efficient and safe adoptions.

193 (b) The commission shall consist of: the commissioner of the department of children and  
194 families or a designee; the chief justice of probate and family court or a designee; the child  
195 advocate; an adoptive parent to be nominated by the Home for Little Wanderers, Inc.; a  
196 representative of the Rudd Adoption Research Program at the University of Massachusetts at  
197 Amherst; the deputy chief counsel of the committee for public counsel services' children and  
198 family law division or a designee; and a representative of the Massachusetts Adoption Resource  
199 Exchange, Inc. The commission shall submit a report, together with any recommended  
200 legislation, to the clerks of the house and senate, the chairs of the joint committee on children,  
201 families and persons with disabilities and the house and senate committees on ways and means  
202 not later than December 30, 2018.