

SENATE No. 75

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 to keep siblings together.

PETITION OF:

NAME:

Karen E. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

SENATE No. 75

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 75) of Karen E. Spilka for legislation relative to the placement of foster children with their siblings. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 104 OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act to keep siblings together.

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. Subsection (c) of section 23 of chapter 119 of the General Laws, as
2 appearing in the 2014 Official Edition, is hereby amended by striking out the second paragraph
3 and inserting in place thereof the following 2 paragraphs:-

4 The department shall seek to identify any minor sibling or half-sibling of the child. The
5 department and the court shall ensure that siblings removed from their home and placed in the
6 department’s care, custody or responsibility are placed in the same foster care, kinship
7 guardianship or adoptive placement with all siblings and half-siblings unless the department
8 makes a showing to the court by clear and convincing evidence that a joint- placement is
9 contrary to the safety or well-being of any of the siblings; provided further, that the court shall
10 make written findings in support of its decision to deny the joint placement. In the case of

11 siblings removed from their home who are not jointly placed, the department shall provide for
12 frequent visitation or other ongoing interaction between the siblings, unless the department
13 makes a showing to the court by clear and convincing evidence that frequent visitation or other
14 ongoing interaction is contrary to the safety or well-being of any of the siblings; provided
15 further, that the court shall make written findings in support of its decision to deny the frequent
16 visitation or other ongoing interaction. Notwithstanding any provision of this section, the
17 department may separate a child from siblings or half-siblings to avoid immediate risk of harm to
18 any child; provided, however, that if the department does separate a child from a sibling or half-
19 sibling without prior court approval, it shall file a petition for court approval of its placement
20 decision within 1 business day after the placement and provide notice to all counsel in any
21 proceeding held pursuant to this chapter. The court shall hold a hearing regarding the placement
22 change within 7 days of filing the petition. The department shall bear the burden of showing by
23 clear and convincing evidence at the hearing that the best interests of 1 or more of the siblings
24 requires a separate placement. Any child who is placed apart from any sibling or half-sibling,
25 even if placed with other siblings or half-siblings, may ask the court to review its decision
26 authorizing a separate placement. The department shall bear the burden of showing by clear and
27 convincing evidence that the best interests of at least 1 sibling to continue in a separate
28 placement.

29 If the court authorizes the department to place siblings or half-siblings in separate
30 placements, the department shall make ongoing efforts to remedy any concerns found by the
31 department that led to the separate placements. The department shall document its efforts in the
32 case plan. Notwithstanding the definition of “custody” in section 21, the court may make any

33 order to ensure the joint placement of siblings or half-siblings as may be in the children's best
34 interests.