

SENATE No. 945

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 rescinding an order terminating parental rights.

PETITION OF:

NAME:

Karen E. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

SENATE No. 945

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 945) of Karen E. Spilka for legislation to rescind an order terminating parental rights. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 902 OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act rescinding an order terminating parental rights.

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 3 of chapter 210 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by adding the following subsection:-

3 (e) For the purposes of this subsection, the term “child” shall include a young adult as
4 defined in section 21 of chapter 119. If at least 2 years have passed since the court entered an
5 order terminating parental rights pursuant to this chapter or chapter 119, a child whose parents
6 were the subject of that order may file a motion requesting that the court vacate the order with
7 respect to 1 or both of the child’s former parents, but only if all of the following apply: (i) the
8 child is at least 12 years of age; (ii) the court has determined, after a hearing under section 29B
9 of chapter 119, that adoption is no longer the permanency plan for the child; and (iii) either the
10 child has not been adopted or, if the child has been adopted, a court has entered an order

11 terminating the parental rights of the child's adoptive parents or the adoptive parents have
12 voluntarily surrendered their parental rights. The child shall sign the motion in the absence of a
13 showing of good cause as to why the child is unable to sign the motion. The court shall order
14 that an evidentiary hearing be held and provide notice, in the manner prescribed for a petition
15 filed pursuant to section 24 of chapter 119, of the hearing to the child's former parents.. Neither
16 parent shall be considered a party for the purpose of the motion, nor shall either have an
17 independent right to be heard, though a parent's testimony may be offered into evidence if the
18 parent is called as a witness by a party. The court shall grant the motion if it determines by a
19 preponderance of evidence that vacating the order terminating parental rights is in the child's
20 best interests. The court shall specify in writing the factual basis for its determination. As soon
21 as practicable after granting the motion, the court shall enter an order pursuant to subsection (b)
22 of section 26 of chapter 119, provided that the order is in the best interests of the child.

23 SECTION 2. Section 1 of this act shall apply regardless of whether the two year
24 requirement is met before, on, or after the effective date of this act.