

HOUSE No. 3882

The Commonwealth of Massachusetts

PRESENTED BY:

David F. DeCoste and Colleen M. Garry

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 protect victims of rape and children conceived during the commission of said offense.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/17/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/30/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>6/3/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>6/5/2019</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>6/5/2019</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>	<i>6/10/2019</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>6/10/2019</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>6/10/2019</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>6/10/2019</i>

HOUSE No. 3882

By Representatives DeCoste of Norwell and Garry of Dracut, a petition (accompanied by bill, House, No. 3882) of David F. DeCoste, Colleen M. Garry and others relative to victims of rape and children conceived during the commission of said offense. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to protect victims of rape and children conceived during the commission of said offense.

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. Chapter 209 of the General Laws, as so appearing, is hereby amended by
2 adding the following section:-

3 Section 39. Notwithstanding the provisions of section 38, a married woman may file a
4 petition with the court to terminate her husband’s parental rights pursuant to this section.
5 Grounds for the termination of parental rights shall be established if the court determines by
6 clear and convincing evidence that a child of the marriage was conceived as a result of an act of
7 rape made unlawful pursuant to sections 22 or 22A of chapter 265, or pursuant to a similar law
8 of another state, territory, possession, or Native American tribe where the offense occurred. It is
9 presumed that termination of parental rights is in the best interest of the child if the child was
10 conceived as a result of the unlawful sexual battery. A petition for termination of parental rights
11 under this paragraph may be filed at any time. The court shall accept a guilty plea or conviction

12 of unlawful sexual battery pursuant to said sections 22 or 22A of chapter 265 as conclusive proof
13 that the child was conceived by a violation of criminal law as set forth in this section.

14 SECTION 2. Chapter 209C of the General Laws, as appearing in the 2016 Official
15 Edition, is hereby amended by inserting after section 1 the following subsection:-

16 Section 1A. Notwithstanding section 10, the mother of a child who was born as a result of
17 an act of rape as set forth in this section may file a petition with the court to terminate the
18 perpetrator's parental rights. Grounds for the termination of parental rights shall be established if
19 the court determines by clear and convincing evidence that the child was conceived as a result of
20 an act of rape made unlawful pursuant to sections 22 or 22A of chapter 265, or pursuant to a
21 similar law of another state, territory, possession, or Native American tribe where the offense
22 occurred. It is presumed that termination of parental rights is in the best interest of the child if the
23 child was conceived as a result of the unlawful sexual battery. A petition for termination of
24 parental rights under this paragraph may be filed at any time. The court shall accept a guilty plea
25 or conviction of unlawful sexual battery pursuant to said sections 22 or 22A of chapter 265 as
26 conclusive proof that the child was conceived by a violation of criminal law as set forth in this
27 section.