

HOUSE No. 1793

The Commonwealth of Massachusetts

PRESENTED BY:

Joan Meschino

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 regarding the quantum of proof in care and protection and termination of parental rights cases.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>2/17/2021</i>

HOUSE No. 1793

By Ms. Meschino of Hull, a petition (accompanied by bill, House, No. 1793) of Joan Meschino for legislation to rescind an order terminating parental rights. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act regarding the quantum of proof in care and protection and termination of parental rights cases.

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 24 of Chapter 119 of the General Laws is hereby amended by
2 striking out the third and fourth paragraphs and inserting in place thereof the following two
3 paragraphs:-

4 If, after the petitioner testifies under oath, the court finds by a fair preponderance of the
5 evidence that: (i) the child is suffering from serious abuse or neglect or is in immediate danger of
6 serious abuse or neglect; and (ii) immediate removal of the child is necessary to protect the child
7 from serious abuse or neglect, the court may issue an emergency order transferring custody of
8 the child for up to 72 hours to the department or to a licensed child care agency or individual
9 described in subclause (i) of clause (2) of subsection (b) of section 26.

10 Upon entry of the order, notice to appear before the court shall be given to either parents,
11 both parents, a guardian with care and custody, or another custodian. At that time, the court shall
12 determine whether temporary custody shall continue beyond 72 hours until a hearing on the

13 merits of the petition for care and protection is concluded before the court. The court may allow
14 temporary custody to continue only if it finds, by clear and convincing evidence, that: (i) the child
15 is suffering from serious abuse or neglect or is in immediate danger of serious abuse or neglect;
16 and (ii) that immediate removal of the child is necessary to protect the child from serious abuse
17 or neglect. The court shall also consider the provisions of section 29C and shall make the written
18 certification and determinations required by said section 29C.

19 SECTION 2. Section 3 of Chapter 210 of the General Laws is hereby amended by
20 striking out the fourth sentence of the first paragraph of subsection (b) and inserting in place
21 thereof the following sentence:-

22 The court shall issue a decree dispensing with the need for consent or notice of any
23 petition for adoption, custody, guardianship or other disposition of the child named therein, if it
24 finds, beyond a reasonable doubt, that the persons named in section 2 are unfit and the best
25 interests of the child as provided in paragraph (c) will be served by the decree.

26 SECTION 3. Section 3 of Chapter 210 of the General Laws is hereby amended by
27 striking out the first sentence of the third paragraph of subsection (b) and inserting in place
28 thereof the following sentence:-

29 A juvenile court or a district court shall enter a decree dispensing with the need for
30 consent of any person named in section 2 to the adoption of a child named in a petition filed
31 pursuant to section 24 of chapter 119 in such court upon a finding, beyond a reasonable doubt,
32 that the persons named in section 2 are unfit and the best interests of the child as defined in
33 paragraph (c) will be served by such decree.

34 SECTION 4. Section 3 of Chapter 210 of the General Laws is hereby amended by adding
35 at the end of subsection (c) the following paragraph:-

36 The petitioner shall bear the burden of proving, beyond a reasonable doubt, the unfitness
37 of the child's parent or other person named in section 2 and that the best interests of the child are
38 served by dispensing with the need for consent to adoption of the child.