

HOUSE No. 254

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 to keep siblings together in foster care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>2/4/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/8/2021</i>

HOUSE No. 254

By Ms. Meschino of Hull, a petition (accompanied by bill, House, No. 254) of Joan Meschino and Vanna Howard for legislation relative to the placement of foster children with their siblings. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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

An Act to keep siblings together in foster care.

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 2018 Official Edition, is hereby amended by striking out said section and
3 inserting in place thereof the following:-

4 (c) (1) Whenever the department places a child in foster care, the department shall
5 immediately commence a search to locate any relative of the child, including the parents of
6 siblings or half-siblings who have custody of the siblings or half-siblings, or other adult person
7 who has played a significant positive role in that child's life in order to determine whether the
8 child may appropriately be placed with that relative or person if, in the judgment of the
9 department, that placement would be in the best interest of the child.

10 (2) The department shall seek to identify any minor sibling or half-sibling of the child.
11 The department and the court shall ensure that children removed from their home and placed in
12 the department's care, custody or responsibility are placed together with all siblings and half-

siblings unless the department makes a showing to the court by clear and convincing evidence that (i) a joint placement is contrary to the safety or well-being of any of the siblings or half-siblings; or (ii) in cases involving more than four siblings or half-siblings, the department made active efforts to place all of the children together but, notwithstanding those efforts, it is impracticable for the department to do so. The court shall make written findings in support of its decision to deny the joint placement and may make any other order regarding placement of siblings and half-siblings in the children's best interests.

(3) In the case of siblings or half-siblings who are not jointly placed, the department shall provide for frequent visitation and other ongoing interaction between them, unless the department makes a showing to the court by clear and convincing evidence that frequent visitation and other ongoing interaction is contrary to the safety or well-being of any of the children; provided further, that the court shall make written findings in support of its decision to deny the frequent visitation or other ongoing interaction. Any sibling or half-sibling may ask the court at any time to review its decision regarding visitation or other ongoing contact or any action by the department implementing the court's decision.

(4) Notwithstanding any provision of this section, the department may separate a child from siblings or half-siblings to avoid immediate risk of harm to any child; provided, however, that if the department does separate a child from a sibling or half-sibling without prior court approval, it shall file a petition for court approval of its placement decision within 1 business day after the placement and provide notice to all counsel in any proceeding held pursuant to this chapter or chapter 210. The court shall hold a hearing regarding the placement change within 7 days of filing the petition. The department shall bear the burden of showing by clear and

convincing evidence at the hearing that the best interests of 1 or more of the siblings or half-siblings require a separate placement.

(5) Any child who is placed apart from any sibling or half-sibling, even if placed with other siblings or half-siblings, may ask the court at any time to review its decision authorizing a separate placement or any action by the department implementing the court's decision. The department shall bear the burden of showing by clear and convincing evidence that its current placement arrangements are warranted.

(6) If the court authorizes the department to place siblings or half-siblings in separate placements, or if the department places siblings or half-siblings in separate placements pending review by the court, the department shall make ongoing efforts to remedy any concerns found by the department that led to the separate placements, including the impracticability of joint placement of larger sibling or half-sibling groups. The department shall document its efforts in the case plan.

(7) Notwithstanding the definition of "custody" in section 21, the court may make any order to ensure the joint placement of, frequent visitation with, or other ongoing interaction with siblings or half-siblings as may be in the children's best interests, including an order to place a child with his or her sibling or half-sibling in a foster home notwithstanding department regulations preventing such placement, provided the foster parent is willing to accept the child.

(8) The department shall develop and implement a plan to increase the number of placements available for siblings and half-siblings. The department shall report annually on the status and effectiveness of its plan, including past and current data regarding the joint placement of siblings and half-siblings in the department's care, custody, or responsibility, to the joint

57 committee on children, families and persons with disabilities not later than March 31 of each
58 year.