

HOUSE No. 1562

The Commonwealth of Massachusetts

PRESENTED BY:

Kimberly N. Ferguson

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 relative to the re-homing of children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>1/29/2021</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/25/2021</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>2/25/2021</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>2/25/2021</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>2/25/2021</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>	<i>2/25/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/26/2021</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>2/26/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/26/2021</i>

HOUSE No. 1562

By Mrs. Ferguson of Holden, a petition (accompanied by bill, House, No. 1562) of Kimberly N. Ferguson and others relative to the re-homing so-called of certain adopted children. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to the re-homing of children.

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 1A of chapter 15D of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting after the definition of “department” the
3 following 2 definitions:-

4 “Disruption”, an adoption process that ends after the child is placed in an adoptive home
5 and before the adoption is legally finalized.

6 “Dissolution”, an adoption in which the legal relationship between the adoptive parent
7 and adoptive child is severed, either voluntarily or involuntarily, after the adoption is legally
8 finalized.

9 SECTION 2. Section 6 of said chapter 15D, as so appearing, is hereby amended by
10 striking out, in lines 44 and 45, the words “in a newspaper distributed in the commonwealth”.

SECTION 3. Said section 6 of said chapter 15D, as so appearing, is hereby further amended by striking out, in lines 45 and 46, the words “on a radio or television station”.

SECTION 4. Said section 6 of said chapter 15D, as so appearing, is hereby further amended by striking out, in line 47, the figure “16” and inserting in place thereof the following figure:- 18.

SECTION 5. Said section 6 of said chapter 15D, as so appearing, is hereby amended by inserting after subsection (c) the following 2 subsections:-

(c¹/₄) No person or entity, unless acting as a duly authorized agent or employee of the department of children and families or a licensed placement agency, shall accept payment in the form of money or other consideration in return for placing a child for adoption or for any other temporary placement or permanent physical placement. No person or entity shall knowingly give payment in the form of money or other consideration to another person or entity, other than a duly authorized agent or employee of the department of children and families or a licensed placement agency, for placing a child for adoption or for any other temporary placement or permanent physical placement. Nothing in this subsection shall prohibit a duly authorized agent or employee of the department of children and families or a licensed placement agency from giving subsidies or other benefits for the care and maintenance of such children. For the purposes of this section, the term “temporary placement” shall not include when the parents or custodians of a child place that child for a designated short-term period with a specified intent for return of the child; provided, however, that “short-term period” shall include, but not be limited to, short-term placements due to parental employment, vacations, school-sponsored functions or activities, incarceration, military service, medical treatment or the incapacity of a parent.

(c½) No person or entity, unless acting as a duly authorized agent or employee of the department of children and families or a licensed placement agency, shall solicit payment in the form of money or other consideration in return for placing a child for adoption or for any other temporary placement or permanent physical placement. No person or entity shall knowingly offer payment in the form of money or other consideration to another person or entity, other than a duly authorized agent or employee of the department of children and families or a licensed placement agency, for placing a child for adoption or for any other temporary placement or permanent physical placement. Nothing in this subsection shall prohibit a duly authorized agent or employee of the department of children and families or a licensed placement agency from offering subsidies or other benefits for the care and maintenance of such children.

SECTION 6. Said section 6 of said chapter 15D, as so appearing, is hereby further amended by adding the following 5 subsections:-

(f) A placement agency shall provide prospective adoptive parents with all relevant information that the agency holds about a child to enable the prospective adoptive parent to knowledgeably determine whether to accept the child for adoption. Relevant information shall include, but not be limited to, all mental, emotional, behavioral or physical health issues of the child and the child's birth family, any prior placement history and any other information which would be relevant to the growth and development of the child. The department shall issue guidelines for placement agencies on the release of relevant and accurate information relative to a child's mental, emotional and behavioral health.

(g) A placement agency shall make available, either directly or by referral, post-adoption services to adoptive parents and adopted children to avoid disruption or dissolution of the adoption. The services shall include, but not be limited to:

(i) factual information pertaining to adoption services provided at the placement agency;

(ii) counseling concerning adoption related issues such as identity, roles and relationships;

(iii) counseling and other services which support placements;

(iv) assistance in joining or developing support groups;

(v) information regarding health care coverage for the child through the state; and

(vi) general information regarding current adoption issues, practices and laws.

If the services are being offered by referral, the placement agency shall provide a list of agencies that provide such services to adoptive parents.

(h) The adoptive parent shall contact the placement agency that facilitated the adoption if there is a disruption or dissolution of an adoption or any potential disruption or dissolution of an adoption or in the event that the adoptive parent can no longer adequately care for the child.

Upon notification by the adoptive parent, the placement agency that facilitated the adoption shall contact the department of children and families. If the placement agency that facilitated the adoption is no longer in operation or not reachable, the adoptive parent shall contact the department of children and families.

(i) The department of early education and care shall create a uniform orientation curriculum for adoptive parent applicants. All placement agencies shall provide this orientation for adoptive parent applicants and all adoptive parent applicants shall participate. The curriculum shall include a minimum number of hours to be completed as part of the orientation and shall include, at a minimum, specific information for adoptive parent applicants seeking to adopt international children and notice of section 11A of chapter 210.

SECTION 7. Said chapter 15D is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. (a) As used in this section, the term “published” shall include, but not be limited to, any computerized communication system including electronic mail, internet site, internet profile or any similar medium of communication provided via the internet.

(b) Any person or entity, unless acting as a duly authorized agent or employee of the department of children and families or a licensed placement agency, who causes to be published, disseminated or broadcast in the commonwealth, an advertisement or notice for the placement or reception of a child under 18 years of age, or in any way offers to place or locate children offered or wanted for adoption or any other permanent physical placement, or who holds themselves out in any way as being able to place or locate children for adoption or any other permanent physical placement in violation of subsections (c) or (e) of section 6 shall be punished by a fine of not less than \$5,000 nor more than \$25,000.

(c) Any person or entity, unless acting as a duly authorized agent or employee of the department of children and families or a licensed placement agency, who violates subsection (c¼) of section 6 by accepting payment in the form of money or other consideration in return for

94 placing a child for adoption or for any other temporary placement or permanent physical
95 placement shall be punished by a fine of not less than \$5,000 nor more than \$30,000, or by
96 imprisonment in a jail or a house of correction for not more than 2½ years or in a state prison for
97 not more than 20 years, or by both such fine and imprisonment. Any person or entity who
98 violates said subsection (c¼) of said section 6 by knowingly giving payment in the form of
99 money or other consideration to another person or entity, other than a duly authorized agent or
100 employee of the department of children and families or a licensed placement agency, for placing
101 a child for adoption or for any other temporary placement or permanent physical placement shall
102 be punished by a fine of not less than \$5,000 nor more than \$30,000, or by imprisonment in a jail
103 or a house of correction for not more than 2½ years or in a state prison for not more than 20
104 years, or by both such fine and imprisonment. For the purposes of this section, the term
105 “temporary placement” shall not include when the parents or custodians of a child place that
106 child for a designated short-term period with a specified intent for return of the child; provided,
107 however, that “short-term period” shall include, but not be limited to, short-term placements due
108 to parental employment, vacations, school-sponsored functions or activities, incarceration,
109 military service, medical treatment or the incapacity of a parent.

110 (d) Any person or entity, unless acting as a duly authorized agent or employee of the
111 department of children and families or a licensed placement agency, who violates subsection
112 (c½) of section 6 by soliciting payment in the form of money or other consideration for placing a
113 child for adoption or for any other temporary placement or permanent physical placement shall
114 be punished by a fine of not less than \$5,000 nor more than \$30,000, or by imprisonment in a jail
115 or a house of correction for not more than 2½ years or in a state prison for not more than 20
116 years, or by both such fine and imprisonment. Any person or entity who violates said subsection

(c½) of said section 6 by knowingly offering payment in the form of money or other consideration to another person or entity, other than a duly authorized agent or employee of the department of children and families or a licensed placement agency, for placing a child for adoption or for any other temporary placement or permanent physical placement shall be punished by a fine of not less than \$5,000 nor more than \$30,000, or by imprisonment in a jail or a house of correction for not more than 2½ years or in a state prison for not more than 20 years, or by both such fine and imprisonment.

(e) Any person who violates subsection (e) of section 6 by causing to be published, disseminated or broadcast in the commonwealth, an advertisement or notice for the placement or reception of a child under 18 years of age for family child care, large family child care, child care center care, school-aged child care program, group residential care or temporary shelter care shall be punished for each violation by a fine of up to \$5,000 or by imprisonment in a jail or a house of correction for not more than 2 ½ years, or by both such fine and imprisonment.

(f) Any person who violates subsections (a), (b) or (d) of section 6 shall be punished for each violation by a fine of up to \$5,000 or by imprisonment in a jail or a house of correction for not more than 2 ½ years, or by both such fine and imprisonment.

(g) Upon petition of the department, the superior court shall have jurisdiction to enjoin any violation of section 6 or to take other action that equity and justice may require.

SECTION 8. The third paragraph of section 6 of chapter 210 of the General Laws, as so appearing, is hereby amended by adding the following sentence at the end thereof:- No decree of adoption shall be entered by the court until the petitioner for adoption has executed an acknowledgement of the criminal penalties available under section 11A for the unauthorized

adoption or placement of a child; provided, however, that failure of the court to provide for the execution of such acknowledgement shall not be grounds for per se invalidation of the adoption.

SECTION 9. Said chapter 210 of the General Laws is hereby further amended by striking out section 11A, as so appearing, and inserting in place thereof the following section:-

Section 11A. (a) As used in this section, the term “published” shall include, but not be limited to, any computerized communication system including electronic mail, internet site, internet profile or any similar medium of communication provided via the internet.

(b) Any person or entity, unless acting as a duly authorized agent or employee of the department of children and families or a placement agency licensed under chapter 15D, who causes to be published in the commonwealth, an advertisement or notice of children offered or wanted for adoption or any other permanent physical placement, or in any way offers to place or locate children offered or wanted for adoption or any other permanent physical placement, or who holds themselves out in any way as being able to place or locate children for adoption or any other permanent physical placement or who holds themselves out in any way as being able to approve a family for adoption or the placement of a child shall be punished by a fine of not less than \$5,000 nor more than \$25,000. Any such person who shall accept payment in the form of money or other consideration in return for placing a child for adoption or any other permanent physical placement shall be punished by a fine of not less than five thousand and no more than thirty thousand dollars, or by imprisonment in jail or house of correction for not more than two and one-half years or in the state prison for not more than five years, or both.

(c) No person unrelated to a child by blood or marriage, and no organization other than a licensed or approved placement agency, shall receive a child for adoption or any other permanent

physical placement following an advertisement in violation of subsection (b). Whoever receives a child to be adopted or placed in any other permanent physical placement in violation of this section, shall be punished by a fine of not less than \$10,000 and no more than \$40,000, or by imprisonment in jail or house of correction for not more than two and one-half years or in the state prison for not more than five years, or both.

(d) A parent or legal guardian who causes a child to be adopted or placed in any other permanent physical placement, in violation of this section, shall be punished by imprisonment in the state prison for not less than 5 years nor more than 20 years and by a fine of not more than \$25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he has served 5 years of such sentence.

SECTION 10. Notwithstanding any general provisions or special laws to the contrary, (a) There shall be a task force to identify likely channels for abuse, including legal vehicles, in the re-homing of children. The task force shall consist of the following members or their designees: the chief justice of the probate and family court department, who shall serve as chair; the commissioner of early education and care; the commissioner of children and families; the chief counsel of the committee for public counsel services; the attorney general; the child advocate; the chair of the Children's League of Massachusetts, Inc.; and 2 appointees of the governor, who shall have expertise in child welfare.

(b) The task force shall submit a report on likely channels for abuse in the re-homing of children and any recommendations for responding to such potential or actual abuse including,

but not limited to, developing a system for mandated reporting. The task force shall submit its report, together with any recommended legislation, to the clerks of the house and senate, the chairs of the joint committee on children, families and persons with disabilities and the house and senate committees on ways and means not later than June 30, 2018.

SECTION 11. Notwithstanding any general provisions or special laws to the contrary, (a) There shall be a commission to examine the process of adoptions facilitated by the commonwealth. The commission shall examine the monetary and temporal cost of adoption, state regulations and procedures, supports provided for families prior to and after adoption, educational transitions, issues related to oversight and accountability and best practices. The commission shall also consider social barriers to adoption and differences between in-state, national and international adoption processes. The commission shall provide recommendations for ensuring efficient and safe adoptions.

(b) The commission shall consist of: the commissioner of the department of children and families or a designee; the chief justice of probate and family court or a designee; the child advocate; an adoptive parent to be nominated by the Home for Little Wanderers, Inc.; a representative of the Rudd Adoption Research Program at the University of Massachusetts at Amherst; the deputy chief counsel of the committee for public counsel services' children and family law division or a designee; and a representative of the Massachusetts Adoption Resource Exchange, Inc. The commission shall submit a report, together with any recommended legislation, to the clerks of the house and senate, the chairs of the joint committee on children, families and persons with disabilities and the house and senate committees on ways and means not later than December 30, 2022.