HOUSE DOCKET, NO. 1297 FILED ON: 1/18/2023

HOUSE . . . . . No. 1390

The Commonwealth of Massachusetts

PRESENTED BY:

Ruth B. Balser

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 ensure equitable representation in probate court proceedings involving children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Ruth B. Balser	*12th Middlesex*	*1/18/2023*
Jacqueline Parker		*1/18/2023*

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HOUSE . . . . . No. 1390

By Representative Balser of Newton, a petition (accompanied by bill, House, No. 1390) of Ruth B. Balser and Jacqueline Parker relative to probate court proceedings involving children. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1463* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to ensure equitable representation in probate court proceedings involving children.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 190B, Section 5-212 of the General Laws is hereby amended by adding the following subsection:

(d) In any Probate Court case in which a child has been living with a guardian pursuant to a Probate Court order, and the non-custodial parent seeks to take that custody away or seeks an order for visitation or the guardian seeks to file a petition for adoption, the guardian is entitled to court-appointed counsel, regardless of whether they are indigent or not, if the non-custodial parent opposing the continued guardianship or adoption by the guardian obtains a court-appointed attorney to prosecute or defend the proceeding. The Probate Court clerk's office is required to inform the pre-adoptive parent or guardian of this right to counsel.

SECTION 2. Chapter 210, Section 3, subsection (b) of the General Laws, is hereby amended by striking out the second paragraph and inserting in place thereof the following:-

(b) The department of children and families or a licensed child care agency may commence a proceeding, independent of a petition for adoption, in the probate court in Suffolk county or in any other county in which the department or agency maintains an office, to dispense with the need for consent of any person named in section 2 to adoption of the child in the care or custody of the department or agency. Notice of such proceeding shall be given to such person in a manner prescribed by the court. The court shall appoint counsel to represent the child in the proceeding unless the petition is not contested by any party. If a non-custodial parent opposing a stepparent adoption obtains a court-appointed attorney to defend the proceeding, the court shall appoint counsel to represent a custodial parent who is seeking a stepparent adoption, regardless of indigency, unless the petition is not contested by any party. The court shall issue a decree dispensing with the need for consent or notice of any petition for adoption, custody, guardianship or other disposition of the child named therein, if it finds that the best interests of the child as provided in paragraph (c) will be served by the decree. Pending a hearing on the merits of a petition filed under this paragraph, temporary custody may be awarded to the petitioner. The entry of such decree shall have the effect of terminating the rights of a person named therein to receive notice of or to consent to any legal proceeding affecting the custody, guardianship, adoption or other disposition of the child named therein. The department shall provide notice of the hearing on the merits to any foster parent, pre-adoptive parent or relative providing care for the child informing the foster parent, pre-adoptive parent or relative of his right to attend the hearing and be heard. The provisions of this paragraph shall not be construed to require that a foster parent, pre-adoptive parent or relative be made a party to the proceeding.