SENATE DOCKET, NO. 626 FILED ON: 1/17/2023

SENATE . . . . . No. 91

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

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 assure quality foster care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Adam Gomez	*Hampden*	
Vanna Howard	*17th Middlesex*	*1/31/2023*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*3/13/2023*
Michael O. Moore	*Second Worcester*	*3/15/2023*
Jason M. Lewis	*Fifth Middlesex*	*4/4/2023*
Brendan P. Crighton	*Third Essex*	*4/13/2023*

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SENATE . . . . . No. 91

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 91) of Adam Gomez and Vanna Howard for legislation to assure quality foster care. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *109* OF 2021-2022.]

The Commonwealth of Massachusetts

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

An Act to assure quality 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:

SECTION 1. Section 23 of chapter 119 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting the following new sub-section (j):

(1) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Employee organization," an employee organization as defined in section 1 of chapter 150E.

"Foster Parent," a person authorized or licensed by the Department of Children and Families to provide foster care or pre-adoptive care to children in the care or custody of the

Department of Children and Families or a former foster parent who receives a post-adoptive subsidy from said department.

(2) The department shall, subject to appropriation and notwithstanding any general or special law to the contrary, assure quality foster care provided to children placed with foster parents and families by working cooperatively with foster parents to build upon the existing system and continuously improve the provision of high quality foster care through foster parents who have the requisite qualifications, supports, and training.

(3) Foster parents shall be considered public employees, as defined by and solely for the purposes of Chapter 150E, sections 17A and 17J of chapter 180, section 10B of chapter 66 and clause 26(o) of section 7 of chapter 4. Said chapter 150E, including subsection (c) of section 7, shall apply to foster parents except to the extent that chapter 150E is inconsistent with this section, in which case this section shall control. Foster parents shall not be considered public employees or state employees for any purpose other than those set forth in this section. The department, acting through the commissioner, shall be the employer, solely for the purposes of said chapter 150E, said sections 17A and 17J of said chapter 180, and said section 10B of chapter 66. Foster parents shall not be eligible for benefits through the group insurance commission, the state board of retirement or the state employee workers' compensation program.

(4) Consistent with section 9A of said chapter 150E, no foster parent shall engage in a strike and no foster parent shall induce, encourage or condone any strike, work stoppage, slowdown or withholding of services by any foster parent.

(5) The only appropriate bargaining unit for foster parents shall consist of all foster parents in the commonwealth who are on the most current list of authorized or licensed foster parents which shall be provided by the commissioner.

(6) An employee organization seeking to represent foster parents shall file with the department of labor relations under section 4 of said chapter 150E.

(7) The mandatory subjects, as to which the department and an employee organization certified by the department of labor relations as the bargaining representative of foster parents shall bargain, shall include, but not be limited to, the responsibilities of the foster parents, the responsibilities of the department to the foster parents, developing and encouraging greater education and training opportunities for foster parents, improving recruitment and retention of qualified foster parents, payment rates, rate structures and payment and reimbursement procedures for foster care, supplemental reimbursements for medical or other specialized care, service as educational surrogate parents, attendance at court hearings and foster care review meetings, costs of insurance and reimbursement for property losses caused by children in the care and custody of the department, reimbursement for expenses associated with extra-curricular and social activities, access to training, professional consultation and support, including but not limited to special education, mental and behavioral health, expansion of and access to respite care, foster parent participation in the development of service plans for children in the care and custody of the department , procedures for notice and information regarding placement and service plan changes, and dispute resolution procedures.

(8) Nothing in this section shall modify any right of the department to decide to place or remove a child from the home of a foster parent or the rights of foster parents to appeal and review pursuant to the Department's Grievance and Fair Hearing Procedures, 110 CMR 10.

(9) Nothing in this section shall alter or abridge the department's statutory rights and responsibilities to license foster parents, visit, inspect and monitor foster homes, or to suspend, revoke, sanction or take any other action against a foster parent's license in furtherance of this chapter or in furtherance of the department's regulations promulgated in this regard. The collective bargaining process and the grievance procedures described in said chapter 150E, shall not apply to the department's statutory and regulatory licensing, monitoring and enforcement functions.

(10) To the extent provisions in written agreements between the department and foster parents are inconsistent with the terms of agreements collectively bargained pursuant to this section, the terms of the collectively bargained agreement shall control.

(11) Collective bargaining and related activity by foster parents, as authorized under this section, shall qualify for the state action exemption to the federal anti-trust laws.

SECTION 2. The first paragraph of subsection (c) of section 7 of chapter 150E of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the word providers, as appearing in line 5, the following words:-," the department of children and families with regard to bargaining with foster parents."

SECTION 3. Subsection (j) of section 23 of Chapter 119 of the General Laws, as appearing in section 1, shall take effect upon passage of this act.