HOUSE DOCKET, NO. 1185 FILED ON: 1/16/2013

HOUSE . . . . . No. 1436

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 An Act rescinding an order terminating parental rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	*11th Middlesex*
Marcos A. Devers	*16th Essex*

HOUSE DOCKET, NO. 1185 FILED ON: 1/16/2013

HOUSE . . . . . No. 1436

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 1436) of Kay Khan and Marcos A. Devers relative to the rescinding of orders terminating parental rights. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act An Act rescinding an order terminating parental rights.

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 3 of chapter 210 of the General Laws, as most recently amended by Chapter 93 of the Acts of 2011, is hereby further amended by inserting at the end thereof the following paragraph:-

(e) If at least two years have passed since the court entered an order under this chapter or chapter 119 terminating parental rights, the child whose parents were the subject of that order may file a motion requesting that the court vacate the order with respect to one or both of the child's former parents, but only if all of the following apply:

i. The child is at least 12 years of age.

ii. The court has determined after a hearing under section 29B of chapter 119 that adoption is no longer the permanency plan for the child.

iii. Either the child has not been adopted or, if the child has been adopted, a court has entered an order terminating the parental rights of the child's adoptive parents or the adoptive parents have voluntarily surrendered their parental rights.

The child shall sign the motion in the absence of a showing of good cause as to why the child could not do so. The court shall order that an evidentiary hearing be held and give notice of the hearing to whichever of the child's former parents the motion relates, with notice being provided in the manner prescribed prescribed for a petition filed under section 24. Neither parent shall be considered a party for the purpose of the motion, nor shall either have an independent right to be heard, though a parent's testimony may be offered into evidence if the parent is called as a witness by a party. The court shall grant the motion if it determines by a preponderance of

21 evidence that vacating the order terminating parental rights is in the child's best interests. The
22 court shall specify in writing the factual basis for its determination. As soon as practicable after
23 granting the motion, the court shall enter a new dispositional order under section 26(b), provided
24 that the order is in the best interests of the child. For the purposes of this paragraph, the term
25 "child" includes a young adult as defined in section 21 of chapter 119.

26 SECTION 2. Section 1 of this act shall apply regardless of whether the two year
27 requirement is met before, on, or after the effective date of this act