

SENATE No. 2050

Senate, November 5, 2015 -- Text of the Senate Bill relative to the re-homing of children (Senate, No. 75 and Senate, No. 2029) (being the text of Senate, No. 2043, printed as amended)

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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 2014
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”.

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

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

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

18 (c^{1/4}) No person or entity, unless acting as a duly authorized agent or employee of the
19 department of children and families or a licensed placement agency, shall accept payment in the
20 form of money or other consideration in return for placing a child for adoption or for any other
21 temporary placement or permanent physical placement. No person or entity shall knowingly
22 give payment in the form of money or other consideration to another person or entity, other than
23 a duly authorized agent or employee of the department of children and families or a licensed
24 placement agency, for placing a child for adoption or for any other temporary placement or
25 permanent physical placement. Nothing in this subsection shall prohibit a duly authorized agent
26 or employee of the department of children and families or a licensed placement agency from
27 giving subsidies or other benefits for the care and maintenance of such children. For the
28 purposes of this section, the term “temporary placement” shall not include when the parents or
29 custodians of a child place that child for a designated short-term period with a specified intent for
30 return of the child; provided, however, that “short-term period” shall include, but not be limited
31 to, short-term placements due to parental employment, vacations, school-sponsored functions or
32 activities, incarceration, military service, medical treatment or the incapacity of a parent.

33 (c^{1/2}) No person or entity, unless acting as a duly authorized agent or employee of the
34 department of children and families or a licensed placement agency, shall solicit payment in the

35 form of money or other consideration in return for placing a child for adoption or for any other
36 temporary placement or permanent physical placement. No person or entity shall knowingly
37 offer payment in the form of money or other consideration to another person or entity, other than
38 a duly authorized agent or employee of the department of children and families or a licensed
39 placement agency, for placing a child for adoption or for any other temporary placement or
40 permanent physical placement. Nothing in this subsection shall prohibit a duly authorized agent
41 or employee of the department of children and families or a licensed placement agency from
42 offering subsidies or other benefits for the care and maintenance of such children.

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

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

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

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

- 57 (ii) counseling concerning adoption related issues such as identity, roles and
58 relationships;
- 59 (iii) counseling and other services which support placements;
- 60 (iv) assistance in joining or developing support groups;
- 61 (v) information regarding health care coverage for the child through the state; and
- 62 (vi) general information regarding current adoption issues, practices and laws.

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

65 (h) The adoptive parent shall contact the placement agency that facilitated the adoption if
66 there is a disruption or dissolution of an adoption or any potential disruption or dissolution of an
67 adoption or in the event that the adoptive parent can no longer adequately care for the child.
68 Upon notification by the adoptive parent, the placement agency that facilitated the adoption shall
69 contact the department of children and families. If the placement agency that facilitated the
70 adoption is no longer in operation or not reachable, the adoptive parent shall contact the
71 department of children and families.

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

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

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

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

91 (c) Any person or entity, unless acting as a duly authorized agent or employee of the
92 department of children and families or a licensed placement agency, who violates subsection
93 (c¹/₄) 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 (c¹/₄) 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
113 a 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
117 (c½) of said section 6 by knowingly offering payment in the form of money or other
118 consideration to another person or entity, other than a duly authorized agent or employee of the
119 department of children and families or a licensed placement agency, for placing a child for
120 adoption or for any other temporary placement or permanent physical placement shall be
121 punished by a fine of not less than \$5,000 nor more than \$30,000, or by imprisonment in a jail or

122 a house of correction for not more than 2½ years or in a state prison for not more than 20 years,
123 or by both such fine and imprisonment.

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

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

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

135 SECTION 8. The third paragraph of section 6 of chapter 210 of the General Laws, as so
136 appearing, is hereby amended by adding the following sentence:- No decree of adoption shall be
137 entered by the court until the petitioner for adoption has executed an acknowledgement of the
138 criminal penalties available under section 11A for the unauthorized adoption or placement of a
139 child; provided, however, that failure of the court to provide for the execution of such
140 acknowledgement shall not be grounds for per se invalidation of the adoption.

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

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

146 (b) Any person or entity, unless acting as a duly authorized agent or employee of the
147 department of children and families or a placement agency licensed under chapter 15D, who
148 causes to be published in the commonwealth, an advertisement or notice of children offered or
149 wanted for adoption or any other permanent physical placement, or in any way offers to place or
150 locate children offered or wanted for adoption or any other permanent physical placement, or
151 who holds themselves out in any way as being able to place or locate children for adoption or
152 any other permanent physical placement or who holds themselves out in any way as being able to
153 approve a family for adoption or the placement of a child shall be punished by a fine of not less
154 than \$5,000 nor more than \$25,000. Any such person who shall accept payment in the form of
155 money or other consideration in return for placing a child for adoption or any other permanent
156 physical placement shall be punished for a first offense by a fine of up to \$10,000 or by
157 imprisonment in a house of correction for up to 2½ years, or by both such fine and imprisonment
158 or, if the defendant knew or should have known that the child would be placed at risk for abuse
159 or neglect in the physical placement, the defendant shall be punished by a fine of not more than
160 \$50,000 or by imprisonment in a house of correction for not more than 2½ years or in a state
161 prison for not more than 5 years, or by both such fine and imprisonment; for a second offense by
162 a fine of not more than \$50,000 or by imprisonment in a house of correction for not more than
163 2½ years or in a state prison for not more than 5 years, or by both such fine and imprisonment;
164 and for a third or subsequent offense by a fine of not more than \$100,000 or by imprisonment in

165 a house of correction for not more than 2½ years or in a state prison for not more than 10 years,
166 or by both such fine and imprisonment

167 (c) No person unrelated to a child by blood or marriage, and no organization other than a
168 licensed or approved placement agency, shall receive a child for adoption or any other permanent
169 physical placement following an advertisement in violation of subsection (b). Whoever receives
170 a child to be adopted or placed in any other permanent physical placement in violation of this
171 section, shall be punished for a first offense by a fine of up to \$10,000 or by imprisonment in a
172 house of correction for up to 2½ years, or by both such fine and imprisonment or, if the
173 defendant abused or neglected the child, the defendant shall be punished by a fine of not more
174 than \$50,000 or by imprisonment in a house of correction for not more than 2½ years or in a
175 state prison for not more than 5 years, or by both such fine and imprisonment; for a second
176 offense by a fine of not more than \$50,000 or by imprisonment in a house of correction for not
177 more than 2½ years or in a state prison for not more than 5 years, or by both such fine and
178 imprisonment; and for a third or subsequent offense by a fine of not more than \$100,000 or by
179 imprisonment in a house of correction for not more than 2½ years in a state prison for not more
180 than 10 years, or by both such fine and imprisonment.

181 (d) A parent or legal guardian who causes a child to be adopted or placed in any other
182 permanent physical placement, in violation of this section, shall be punished for a first offense by
183 a fine of up to \$10,000 or by imprisonment in a house of correction for up to 2½ years, or by
184 both such fine and imprisonment or, if the defendant knew or should have known that the child
185 would be placed at risk for abuse or neglect in the physical placement, the defendant shall be
186 punished by a fine of not more than \$50,000 or by imprisonment in a house of correction for not
187 more than 2½ years or in a state prison for not more than 10 years, or by both such fine and

188 imprisonment; for a second offense by a fine of not more than \$50,000 or by imprisonment in a
189 house of correction for not more than 2½ years or in a state prison for not more than 10 years, or
190 by both such fine and imprisonment; and for a third or subsequent offense by a fine of not more
191 than \$100,000 or by imprisonment in a house of correction for not more than 2½ years or in a
192 state prison for not more than 20 years, or by both such fine and imprisonment.

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

200 (b) The task force shall submit a report on likely channels for abuse in the re-homing of
201 children and any recommendations for responding to such potential or actual abuse including,
202 but not limited to, developing a system for mandated reporting. The task force shall submit its
203 report, together with any recommended legislation, to the clerks of the house and senate, the
204 chairs of the joint committee on children, families and persons with disabilities and the house
205 and senate committees on ways and means not later than June 30, 2016.

206 SECTION 11. (a) There shall be a commission to examine the process of adoptions
207 facilitated by the commonwealth. The commission shall examine the monetary and temporal cost
208 of adoption, state regulations and procedures, supports provided for families prior to and after
209 adoption, educational transitions, issues related to oversight and accountability and best

210 practices. The commission shall also consider social barriers to adoption and differences between
211 in-state, national and international adoption processes. The commission shall provide
212 recommendations for ensuring efficient and safe adoptions.

213 (b) The commission shall consist of: the commissioner of the department of children and
214 families or a designee; the chief justice of probate and family court or a designee; the child
215 advocate; an adoptive parent to be nominated by the Home for Little Wanderers, Inc.; a
216 representative of the Rudd Adoption Research Program at the University of Massachusetts at
217 Amherst; the deputy chief counsel of the committee for public counsel services' children and
218 family law division or a designee; and a representative of the Massachusetts Adoption Resource
219 Exchange, Inc. The commission shall submit a report, together with any recommended
220 legislation, to the clerks of the house and senate, the chairs of the joint committee on children,
221 families and persons with disabilities and the house and senate committees on ways and means
222 not later than December 30, 2016.