

By Ms. Melconian, a petition (accompanied by bill, Senate, No. 835) of Linda J. Melconian, Frederick E. Berry, Stanley C. Rosenberg, Charles E. Shannon and other members of the General Court for legislation to clarify child abuse and adoption procedures. The Judiciary.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Ninety-Two.

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AN ACT RELATIVE TO CLARIFYING CHILD ABUSE AND ADOPTION PROCEDURES.

*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 3 (c) of chapter two hundred and ten of the General  
2 Laws, as appearing in the 1990 Official Edition is hereby further  
3 amended by striking it in its entirety and adding in place thereof  
4 the following: —

5 It is the policy of the commonwealth expeditiously to free a  
6 child for adoption if the child's parents are unable or unwilling  
7 to provide a safe, permanent and stable home for that child.  
8 Proceedings must be concluded as swiftly as justice will allow so  
9 that any child who is the focus of a case will not spend large  
10 portions of childhood without the safe, permanent and stable  
11 home to which he/she is entitled. When determining whether a  
12 child has been afforded a permanent and stable home, if the child's  
13 rights conflict with parental rights, the rights of the child shall  
14 prevail.

15 In determining whether the best interests of the child will be  
16 served by granting a petition for adoption without requiring  
17 certain consent as permitted under paragraphs (a) and (b) hereof,  
18 the court may rely upon any one or more of the following grounds,  
19 found by clear and convincing evidence:

20 As used in this section, "abandonment" means being left  
21 without any provision for support, and without any person

22 responsible to maintain care, custody, and control because the  
23 whereabouts of the person responsible is unknown and reasonable  
24 efforts to locate that person have been unsuccessful. The child is  
25 not considered abandoned in the latter circumstance if he/she is  
26 in the care of an adult willing and able to be responsible for the  
27 child's welfare.

28 (i) the child has been abandoned;

29 (ii) the child or another member of his/her immediate family  
30 has been abused or neglected as a result of the acts or omissions  
31 of one or both parents, the parents were offered or received  
32 services intended to correct the circumstances which led to the  
33 abuse or neglect and refused or were unable to utilize such services  
34 on a regular and consistent basis such that a substantial danger  
35 of abuse or neglect continues to exist;

36 (iii) a court of competent jurisdiction has transferred custody  
37 of the child from the child's parents to the department, the  
38 placement has lasted for at least six months and the parents have  
39 not maintained significant and meaningful contact with the child  
40 during the previous six months nor have they made reasonable  
41 efforts to resume care of the child despite having been given the  
42 opportunity to do so;

43 (iv) the child is four years of age or older, a court of competent  
44 jurisdiction has transferred custody of the child from the child's  
45 parents to the department and custody has remained with the  
46 department for at least twelve of the last fifteen consecutive  
47 months and, further, the child cannot be returned to the custody  
48 of his/her parents at the end of that fifteen month period;

49 (v) the child is younger than four years of age, a court of  
50 competent jurisdiction has transferred custody of the child from  
51 the child's parents to the department and custody has remained  
52 with the department for at least six of the last twelve consecutive  
53 months and, further, the child cannot be returned to the custody  
54 of his/her parents at the end of that twelve month period;

55 (vi) the parent, without excuse, fails to provide proper care or  
56 custody for the child and there is reasonable expectation that the  
57 parent will be not able to provide proper care or custody within  
58 a reasonable time considering the age of the child;

59 (vii) unexcused failure of the parent or other person named in  
60 section two of chapter two hundred ten to attend pre-trial  
61 conferences or trial after proper notice;

62 (viii) any other circumstances exist which constitute clear and  
63 convincing evidence that termination of parental rights is in the  
64 child's best interests.

