



# An Act Relative to Custody of a Child of a Parent Convicted of Murder Patrick's Law

**H1853**

*(as revised)*

**Sponsors:** Representative Peter Koutoujian (D) 10<sup>th</sup> Middlesex  
Senator Joan Menard (D) 1<sup>st</sup> Bristol & Plymouth

## **General Summary of the Act:**

The bill will create a rebuttable presumption that contact with the child and exercise of parental rights of the child by the convicted parent is not in the best interest of the child when the parent is convicted of 1<sup>st</sup> or 2<sup>nd</sup> degree murder of the other parent

## **Relevant Specifics of the Act:**

Specifically An Act to Relative to Custody of a Child of a Parent Convicted of Murder would create a new section after 26A in chapter 119 of the General Laws; a new section after 31A in chapter 208 of the General Laws; a new section after 38 in chapter 209 of the General Laws; a new section after 10 in chapter 209C of the General Laws as appearing in the 2002 Official edition, by creating a rebuttable presumption that contact with the child and the exercise of parental rights of the child by the convicted parent is not in the best interest of the child when the parent is convicted of 1<sup>st</sup> or 2<sup>nd</sup> Degree murder or for aiding, abetting, attempting, conspiring or soliciting to commit murder in the first or second degree of the other parent. The presumption may be overcome if the court determines that:

- The child is competent to signify his or her assent and assents to the order of the court awarding contact or exercise of parental rights of the child to the convicted parent;
- Or, an award of custody to the convicted parent is in the child's best interests and the crime occurred in the context of past physical, sexual or psychological abuse of the defendant committed by the murdered parent against the convicted parent as set forth chapter 233, section 23F.

If the court determines that the convicted parent has overcome the presumption, it shall enter written findings of fact in support of such a determination. This bill would also amend section 26 of chapter 119 of the General Laws by including the above convictions as a ground for dispensing with the need for obtaining consent to adoption, custody, guardianship or other disposition of the child from the convicted parent. This bill would also amend Subsection (a) of Section 3 of chapter 210 of the General Laws by dispensing with the need of obtaining consent from the convicted parent for adoption of the child.

There are similar laws in four other states: Arizona, Nevada, Wisconsin, & New Hampshire

For more information Contact the Government Affairs Department at [policy@janedoe.org](mailto:policy@janedoe.org)

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**JDI Position:**

Jane Doe Inc. strongly supports this legislation for the following reasons. Witnessing the abuse of the adult they are most dependent on and love dearly, especially when it is perpetrated by the other adult on whom they are dependent and love, is a terrifying and confusing experience, particularly for very young children. In homes where domestic violence occurs, children are at a high risk of suffering physical and other types of abuse themselves. Regardless of whether children are physically abused, the emotional effects of witnessing domestic violence are very similar to the psychological trauma associated with being a victim of child abuse. Each year, an estimated minimum of 3.3 million children witness emotional, physical, psychological and sexual abuse. Recently in Massachusetts, Patrick Holland sued to “divorce” his father after his father was convicted of murdering his mother. Patrick did this because it was his only recourse to terminate his father’s rights and authority to make decisions about his life. At the taxpayer’s expense Patrick’s father had sought to enforce this legal right. Daniel Holland in the end gave up his parental rights after months of legal wrangling, making Patrick the first child in Massachusetts to initiate a termination proceeding against another parent for killing the other parent. Jane Doe, Inc wants to help Patrick make sure no other child has to endure the legal wrangling that he had to endure and make first degree murder grounds for termination of parental rights. “Patrick’s Law” would help children live in similar circumstances and protect them from being placed with an abusive parent – whether the parent is the mother or the father.

**Current Status:** Before the Joint Judiciary Committee, awaiting hearing date.