HOUSE DOCKET, NO. 110 FILED ON: 1/7/2013

HOUSE . . . . . No. 1464

The Commonwealth of Massachusetts

PRESENTED BY:

David Paul Linsky

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 passage of the accompanying:

An Act further regulating the appointment of certain guardians.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
David Paul Linsky	*5th Middlesex*

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HOUSE . . . . . No. 1464

By Mr. Linsky of Natick, a petition (accompanied by bill, House, No. 1464) of David Paul Linsky relative to further regulating the appointment of certain guardians by the Probate Court. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1337* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act further regulating the appointment of certain guardians.

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 5-305 of chapter 190B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subsections (c) and (d) and inserting in place thereof the following subsection:-

(c) Except as provided in subsection (b), the following, if suitable, are entitled to the presumption that they are the proper person for appointment as guardian of an incapacitated person by the court in the order listed; provided, however, that such presumption may be rebutted by the introduction of competent evidence:

(1) the spouse of the incapacitated person or a person nominated by will of a deceased spouse or by other writing signed by the spouse and attested to by at least 2 witnesses;

(2) the parent or parents of the incapacitated person, or a person nominated pursuant to section 5-301; and

(3) any person the court deems appropriate.

A spouse, parent or parents wishing to designate a third party to serve as guardian of such person may freely elect to do so without prejudice. In such instances, the party so designated

16 shall be presumed to the proper person to be appointed by the court. Such presumption may be
17 rebutted by the introduction of competent evidence.