An Act Regarding Children and Families Requiring Assistance

Background

In 1973, Massachusetts replaced statutes criminalizing youth behaviors that include running away, truancy, disobedience to parents, and violating school rules with a status offender system. The fundamental principle behind the statutory shift was the belief that these behaviors were not offenses against society, but rather behaviors contrary to the youth's own self-interest. However, even though policymakers had deemed it inappropriate to focus on determining the innocence or guilt of these "children in need of services," decriminalization did not precipitate a withdrawal of the state from the children's lives. The advent of status offender systems facilitated a redirection of state efforts from punishing troubled children to diverting them from the courts and providing them with special services.

The CHINS system, since its inception, has been studied by multiple commissions to evaluate if the status offender system was working for the youth involved. Each study commission has returned recommendations to improve the system varying from repealing the system to giving the courts greater control over the youth involved.

In 2005 Senator Karen E. Spilka, Chair of the Joint Committee on Children and Families, called together a task force to explore the practices and laws around the children in need of services (CHINS) system. This group was formed after the committee heard multiple bills around CHINS reform where the same families came to testify for the past decade on the need for change to this system. Senator Spilka as Chair of this newly formed committee wanted to use the legislative process to implement change. Senator Spilka invited over 100 stakeholders involved with the CHINS system to form this task force.

In January of 2007, Senator Spilka filed new legislation, based on the task force's recommendations and other states' best practices, to reform the CHINS system. This legislation is continues to undergo changes as Senator Spilka receives feedback from the task force and members of the community.

General Overview

This legislation proposes the creation of a statewide community-based crisis intervention system and the streamlining of the juvenile justice status offender system. The community-based crisis intervention system would provide an immediate response to families and children in crisis and connect the family to additional services in the community, including, but not limited to, counseling, parent training, and mental health services. The services would be provided along a continuum of intensity, depending on the nature of a family's particular circumstances, with the twin aims of keeping the child out of the juvenile justice system and strengthening the family while ensuring the healthy development of the child. By diverting those children and families who can be helped with community-based services, the juvenile justice system would be reserved for families facing chronic or complicated challenges as a last resort; it would no longer serve as the first option to access social services.

Children and Families Requiring Assistance Process

➢ Community-Based Crisis Intervention System

These community-based centers will be overseen by the Executive Office of Health and Human Services (EOHHS). EOHHS will be charged with designing the model to deliver the services, piloting alternative systems, developing standards, monitoring and providing technical assistance to the service providers, adopting a standard intake process, and creating a data collection system. The services will focus on diverting children from the juvenile justice system and will be provided prior to any legal processes or intervention. Furthermore, the services will address the needs of the entire family, not just the child.

Services are available:

- To families with children between the ages of 7-18
- 24 hours a day, 7 days a week
- On a voluntary, walk in basis

Services include (but are not limited to):

- Initial response and stabilization of the crisis
- Family screening and assessment
- Creation of a family service plan by a case manager in collaboration with the family
- Crisis counseling
- Parent training

Services will last for three months with the possibility of a three-month extension. At the conclusion of the service plan, the child and family attend a disposition meeting where a determination is made whether or not the goals of the family plan were met. The case will either be discharged with success or referred to the juvenile court system where families can access more intensive services.

➢ Diversion from the Juvenile Justice System

In the spirit of diverting children from the juvenile justice system, children and families may only access the juvenile court if the case manager determines that there is a need for further intervention. After the disposition meeting, the parent will receive a written report from the case manager stating that community-based crisis intervention services have terminated and whether or not the case manager believes it is likely the child would benefit from further services. As a "ticket" into the juvenile court, the parent must present the report. If a parent does not have the report, the family will be referred to the nearest community-based program to receive services.

➢ Juvenile Justice System for Status Offenders

The streamlining of procedural requirements for the juvenile justice system will ensure due process for children and families requiring assistance. After showing proof that the family has attempted services from the community-based program, a request for assistance may be filed with the court. If a request is initiated by one parent, the court will provide notice to the other parent of the request. Once the request is filed, a probation officer will be assigned to the case to determine whether more intensive crisis intervention services are necessary and may refer the

family to such services. The petitioner may, at any point prior to the adjudication hearing, withdraw the request for assistance.

Within 90 days after the request was filed, the juvenile court will hold a fact-finding hearing if the case has not been dismissed. The child must be appointed legal counsel at least three days prior to the hearing. At the fact-finding hearing, the judge may: 1) dismiss the request for assistance for lack of probable cause, 2) order the family back to the community-based program for additional services, or 3) schedule an adjudication hearing upon a finding that there is probable cause the child requires assistance. If the case proceeds to an adjudication hearing, the petitioner carries the burden of proof and must prove allegations by a preponderance of the evidence. Upon adjudicating a child to be a "child in need of assistance," the judge will convene a meeting of the probation officer, the case manager, the petitioner, the child's school, and the parent or guardian to determine the appropriate placement of the child, and will make one of the following dispositions:

- Permit the child to remain with the parents, subject to specified conditions
- Place the child in the care of a relative, licensed private charitable or childcare agency, or other private organization qualified to care for the child, or
- Commit the child to DSS

Before committing a child to DSS with a recommendation for out-of-home placement, the court must hold a hearing to determine by clear and convincing evidence whether there is substantial likelihood of serious harm if the child remains at home. In such situations, legal counsel will be appointed to the parent. Dispositions are reviewed every three months and limited to one year.

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