

**PREVENTING TRUANCY
among
STUDENTS
with LEARNING DISABILITIES and/or
MENTAL HEALTH PROBLEMS
who live in
LOW-INCOME, SINGLE PARENT HOMES
with SPECIAL NEEDS ASSESSMENTS and
INDIVIDUAL TRUANCY PREVENTION PLANS**

Research Report in Support of:
“An Act to Prevent Truancy”

Prepared for:
Senator Karen Spilka

Respectfully submitted by:
Rebecca Lynn Kurowski
Legislation Clinics
Boston University School of Law
December 8, 2006

Notice:

You are invited to copy all or part of this report, as long as: (1) it is used for public purposes, and (2) the author’s name *and* Boston University Legislation Clinics are identified. *When used for legislative purposes, the bill included in this report may be copied, in whole or in part, without attribution.*

Table of Contents

REPORT SUMMARY	5
BILL SUMMARY	8
I. INTRODUCTION	10
A. Alison's Story.....	10
B. Narrow Problem and Proposed Solution	12
C. Context of the Truancy Problem	13
1. Extent of Truancy Problem in Massachusetts	13
2. Broad Harm: Truancy is a Nationwide Problem that Harms the Student and Society	14
a. Eventual Harm to Truant Student.....	15
b. Harm to Society	16
3. Overview of the Massachusetts Public Education System and the Roles of the Department of Education and School Districts in Making and Implementing Education Policy.....	17
4. Existing School Attendance Rules and Enforcement Measures	18
D. Analysis Methodology and Summary of the Argument	19
II. THE NARROW PROBLEM ADDRESSED BY THIS REPORT AND BILL: DESPITE CURRENT SCHOOL DISTRICT EFFORTS, CHRONIC TRUANCY PERSISTS AMONG STUDENTS WITH UNDIAGNOSED OR UNTREATED LEARNING DISABILITIES AND/OR MENTAL HEALTH PROBLEMS WHO LIVE IN LOW-INCOME, SINGLE PARENT HOMES.....	20
III. BEHAVIORS OF STUDENTS, PARENTS, AND SCHOOL DISTRICTS	23
IV. EXPLAINING THE BEHAVIORS THAT CONTRIBUTE TO THE PROBLEM OF TRUANCY AMONG STUDENTS WITH LEARNING DISABILITIES AND/OR MENTAL HEALTH PROBLEMS WHO LIVE IN LOW-INCOME SINGLE PARENT HOMES.....	25
A. Some students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes often skip school.....	26
1. Mandatory testing laws aimed at promoting higher academic standards make some struggling students extremely apprehensive about attending school	26
2. Some school rules aimed at preventing truancy sometimes inadvertently promote truancy, especially among students already struggling in school because of learning disabilities or mental health problems	27
3. Poverty and instability in the home and learning disabilities can cause mental health problems that limit the student's ability to function productively at school.....	28
4. Many students from low-income single parents homes are not supervised during the day and therefore can elude conventional anti-truancy efforts of their parents and school districts	29

5. Many students with untreated learning disabilities or mental health problems cannot keep up with class work, do not enjoy school, and do not feel welcome or safe at school.....	31
6. Many students with learning disabilities or mental health problems who live in single parent homes do not value education	32
B. School districts provide a patchwork of services that do not adequately consider and address the special education or mental health needs of students who live in low-income, single parent homes.....	33
1. School districts, governed by an elected school committee and managed by a superintendent, create and implement policies to fight truancy	33
2. No law dictates how school districts have to address truancy or requires school districts to conduct a special education needs assessment unless a parent or teacher requests one.....	34
a. Special education laws require school districts to conduct a special education assessment only upon request	34
b. School districts provide a patchwork of services that do not usually result in a long-term solution to a student's truancy	36
i. School districts have the opportunity to avoid dedicating effort and resources to the truancy problem	36
ii. Anti-truancy efforts by the student's school usually consist of outreach to the parents	37
iii. Anti-truancy efforts by the Supervisor of attendance are often hampered by inefficiencies	39
3. School districts do not effectively communicate to parents that the parents have the option of requesting a special education assessment for their academically struggling student	42
4. Schools districts do not have the time and resources necessary to quickly assess the reasons for a student's truancy.....	43
5. School districts do not want to have to pay for special services that could be required as part of an Individual Education Plan	44
6. School district officials view truancy solely as a behavior problem without addressing the underlying causes.....	45
C. Low-income single parents do not ensure that their children get educational and mental health services they need to succeed and attend school	45
1. Parents of truant students have ultimate responsibility for their children	45
2. Some parents do not fully understand the state school attendance law or the specific attendance policy of their child's school.....	46
3. Low-income, single parents do not always know that their child is skipping school; some of those that know do not have the ability to determine why or to solve the problem	47
4. The rules that require school attendance have minimal adverse consequences for the low-income, single parents of students who do not attend	48
5. Some parents of a truant student with a learning disability or mental health problem do not want the child to receive a special education assessment	50
6. Some low-income single parents do not value education and believe that the stigma associated with obtaining treatment for learning disabilities and mental health problems is worse than living with the disability or problem itself.....	50

V. SOLUTION: SPECIAL NEEDS ASSESSMENTS AND INDIVIDUAL TRUANCY PREVENTION PLANS 51

A. Alternative Solutions.....	52
1. Incentives and Programs for Parents.....	52
2. Punishment for Parents	53
3. Punishments for Students.....	53
4. Enhance Law Enforcement Aspects of Anti-Truancy Efforts	54
5. Creating Closer-knit Environments in Big Schools	55
6. Collaborative Community Programs	55
7. Wholesale Restructuring of CHINS Statute	56

B.	Proposed Solution: Special Needs Assessments and Individual Truancy Prevention Plans.....	58
1.	Summary of Proposed Solution	58
2.	Justification for Proposed Solution	60
3.	Cost / Benefit Analysis of Proposed Solution.....	63
4.	Continuing Evaluation of Proposed Solution's Effectiveness and Integrity of Implementation	66
VI.	CONCLUSION	67
	TEXT OF PROPOSED BILL	68
	APPENDIX A: CHAPTER 76 ("SCHOOL ATTENDANCE") OF THE GENERAL LAWS, SECTION TITLES AND SELECTED TEXT	70
	APPENDIX B: CHILD IN NEED OF SERVICES (CHINS) COURT SYSTEM	73

Report Summary

Truancy is defined as a student's repeated unexcused absence from school.¹ When a student is truant, he or she often falls behind in school, loses confidence in his or her ability to succeed in school, and is much more likely to eventually drop out of school without earning a high school diploma.² Drop-outs are more likely to live adult lives of poverty and criminality, thereby increasing societal public welfare and law enforcement costs.³

Numerous researchers and policy-makers have sought to determine the root causes of truancy and suggest possible solutions.⁴ However, despite these efforts, truancy continues to be a problem, particularly among students with undiagnosed or misdiagnosed learning disabilities and/or mental health problems who live in low-income, single parent homes.

Students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes often skip school. The parents of these students fail to ensure that their children attend school and receive the treatment necessary to address their special needs. School districts currently implement anti-truancy programs which provide a patchwork of services, but fail to adequately consider and address the needs of students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes.

Preventing truancy requires changing behavior, and changing behavior requires understanding why students, parents, and school districts behave in ways that cause or fail to prevent truancy. Students who pay attention in class and study hard, but still cannot do well because of a special need they cannot control or understand, often feel helpless and frustrated, and sometimes develop anxiety disorders or depression.⁵ In some cases, the learning disability is not diagnosed and treated before the student becomes so disillusioned with school that he or

¹ Improving School Attendance: A Resource Guide for Virginia Schools, c. 2005 Virginia Department of Education, p. 4.

² Truancy: First Step to a Lifetime of Problems, by Eileen M. Garry, *Juvenile Justice Bulletin*, p. 1, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice (October 1996), available at <http://www.ncjrs.gov/pdffiles/truncy.pdf>.

³ A Resource Guide for Virginia Schools, p. 6 (finding that in 1999, drop-outs were more than twice as likely to be poverty stricken as those that had completed high school). See also <http://www.cnn.com/2006/EDUCATION/09/12/education.compared.ap/index.html> ("Dropping out of school is also a strong indicator of child delinquency and later adult criminality").

⁴ For example: 1) the Boston Bar Association Task Force on Children In Need of Services' Report on Truancy (July 30, 1998) which explored the truancy problem, and official responses in the Boston Public School district; 2) Improving School Attendance: A Resource Guide for Virginia Schools, c. 2005 Virginia Department of Education; 3) Educational & Mental Health Neglect Leads to Truancy, By Joan T. Esposito August 26, 2003 Report to Santa Barbara Mayor Marty Blum & City Council members (The Santa Barbara District Attorney's 1997-2003 "Truancy Prevention & Parent Accountability Program."), available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf; 4) Truants on truancy – a badness or a valuable indicator of unmet special educational needs? By Neil Southwell, Volume 33, Issue 2, *British Journal of Special Education*, page 91 (June 2006); and 5) Helping Traumatized Children Learn, By Massachusetts Advocates for Children (2005), available at <http://www.massadvocates.org>.

⁵ Educational & Mental Health Neglect Leads to Truancy, at pp. 8 and 10, available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf

she stops attending regularly.⁶ In the worst cases, the student's anxiety or depression disables them to such an extent that they are unable to attend school.⁷ For other students, mental health problems unrelated to the school environment have a detrimental effect on the student's ability to learn, and ultimately lead to academic struggles and truancy.⁸

Parental behavior has a significant effect on a child's school attendance.⁹ In most cases, the parents provide necessities, instill values about education, and are the primary source of authority in a student's life. When a student's truancy is caused by a learning disability and/or mental health problems, low-income single parents often lack the knowledge, resources, ability to advocate for their child and ensure that he or she gets the special help he or she needs.

Most Massachusetts school districts have attendance rules, and procedures for enforcing these rules. School districts are required to employ Supervisors of attendance to enforce school attendance laws.¹⁰ Most school districts make efforts to amass and focus some resources on truancy, but do not use all available means (such as special education diagnosis and instruction) to address truancy.¹¹ Massachusetts has a special court system (called "CHINS" for "Children In Need of Services") to address the needs of troubled children and help truant students change their troubled behaviors.¹² None of these efforts have, so far, had a significant effect on curbing truancy, especially among students with special needs who live in low-income, single parent homes.

School districts have not yet tried combating truancy by directly investigating and addressing learning disabilities and mental health problems of chronically truant students. Pursuant to state and federal law, the Massachusetts Department of Education (DOE)¹³ regulations require that school districts provide special education services, though an Individual Education Plan (IEP), to students who need them. Special education services can include counseling and mental health therapy as well as tutoring and special instruction targeted at a diagnosed learning disability. Research demonstrates that chronically truant students often have undiagnosed special needs.¹⁴ If schools routinely evaluated chronically truant students, many

⁶ Truants on truancy – a badness or a valuable indicator of unmet special educational needs? By Neil Southwell, Volume 33, Issue 2, *British Journal of Special Education*, page 91, 94 (June 2006).

⁷ Esposito, Educational & Mental Health Neglect Leads to Truancy, at p. 8, available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf

⁸ For example, anxiety disorders can affect a child's thinking, decision-making ability, perceptions of the environment, learning and concentration. See Goldman, A pediatrician's guide, available at http://www.keepkidshealthy.com/welcome/conditions/anxiety_disorders.html. See also Helping Traumatized Children Learn, pp. 3-5, By Massachusetts Advocates for Children (2005), available at <http://www.massadvocates.org>. See also Southwell, Truants on truancy, at p. 94.

⁹ Boston Bar Association (BBA) Task Force on Children In Need of Services, Report on Truancy, July 30, 1998, page 34.

¹⁰ See M.G.L. ch.76, §§19 and 20

¹¹ In some cases, teachers and schools, by acts or omissions, exacerbate a student's desire to skip school.

¹² See Appendix B to this report.

¹³ The Massachusetts Department of Education (DOE) implements and enforces regulations promulgated by the Massachusetts Board of Education (BOE) pursuant to statutory authority.

¹⁴ Southwell, Truants on truancy, at p. 94.

of the truancy-causes for students with learning disabilities and/or mental health problems could be solved.

The proposed bill requires school districts to conduct special need assessments for students who have been truant for ten or more days in a school quarter, and then develop and implement Individual Truancy Prevention Plans (ITPPs), similar to special education evaluations and IEPs, to address the particular causes of that student's truancy. This program will greatly improve the efficacy of anti-truancy services already provided.

Truancy prevention programs that punish students or impose monetary fines on their parents exacerbate a special needs student's frustration and anxiety and aggravate the already difficult financial situation of his or her parent. This proposed solution will help alleviate the student's frustration by addressing the root causes of the student's truancy. The proposed solution will not cost the student's family any money, and will help the parent use his or her limited time to be productively involved in the ITPP process and help the student succeed.

Bill Summary

The purpose of this bill is to reduce, and ultimately prevent, truancy among student's whose truancy is caused by undiagnosed or untreated learning disabilities and/or mental health problems. The special needs assessment and resulting Individual Truancy Prevention Plan (ITPP) called for by this bill are similar to the special education assessment and Individual Education Plans (IEPs) currently available for students with special education needs under Chapter 71B of the General Laws and 603 C.M.R. 28.00 of the Department of Education Regulations. The substantial difference between the ITPP and the IEP will be that the ITPP provides for tutoring and a parent-school contact plan even where the student is not found to have any diagnosed disabilities.

This bill, An Act to Prevent Truancy, adds Section 21, entitled "Truancy Prevention," to Chapter 76 ("School Attendance") of the General Laws, and directs the Board of Education to promulgate regulations requiring school districts to conduct a special needs assessment and create an Individual Truancy Prevention Plan for each student absent from school without medical excuse ten or more days in a school quarter.

Subsection (a) of Section 21 would require the assessment to include, at a minimum: 1) evaluation for potential learning disabilities, 2) assessment of mental health and need for talk-therapy, anxiety treatment, etc, and 3) home visit and meeting with the student's parent(s).

Subsection (b) of Section 21 would require that the ITPP include, at a minimum: 1) short term tutoring sessions to help the student catch up on work missed during the truancy absences, 2) a school-parent communication plan which requires that within 24 hours of a student's second consecutive unexcused absence, schools make reasonable efforts to contact the parent of a student to discuss the student's absence, and 3) If shown by the assessment to be needed, regularly scheduled special education or mental health counseling services provided (where possible) at the child's school and during the regular school day. Subsection (b) also requires the parent(s) and a school district official (e.g. a principal or Supervisor of attendance) to sign the ITPP.

Subsection (c) of Section 21 would direct the Board of Education to include a mechanism in the regulations for determining whether the parents are financially able to contribute to the cost of the assessment of the student and services provided to the student. It also mandates that where parents are unable to contribute, the school district must bear the cost.¹⁵

Subsection (d) of Section 21 would direct the Board of Education to include in the regulations 1) schedules for conducting the assessments, and for developing, implementing, amending, and terminating the ITPPs; 2) establishment of the professional qualifications required before an individual can be a member of the assessment team or provide special education or mental health treatment to a student under this law; and 3) mechanisms by which the Department of

¹⁵ Where a student is receiving services provided under an ITPP that he or she is also qualified to receive under a traditional IEP, Massachusetts DOE will reimburse the school district for some of the costs of qualifying expenditures in accordance with the existing special education laws and regulations. See <http://finance1.doe.mass.edu/seducation/>.

Education will ensure school district compliance with the regulation and determine the overall effectiveness of the regulation at reducing truancy.

Subsection (e) of Section 21 would direct the Department of Education to submit a report to the General Court five years after the effective date of this law 1) detailing the effectiveness of the law and associated regulations at reducing truancy, and 2) recommending needed law amendments to assist in the further prevention of truancy.

Subsection (f) establishes that disputes between parents and the school district regarding the assessment, the ITPP, or other matter arising under this law will be resolved in accordance with the already existing laws and procedures governing dispute resolution of special needs evaluations and Individual Education Plans for special needs students.

I. Introduction

A. Alison's Story

Alison, age 14, lived with her sister and their single mother, and frequently skipped school.¹⁶ Alison's mother had a series of minimum wage jobs, and the family often struggled to pay bills. Alison's mother occasionally invited her boyfriends to stay at the house. Some of the boyfriends left quietly, others were kicked out of the house in loud fights that drew police attention. The instability greatly upset Alison. She began to have anxiety attacks, had trouble sleeping, and then was unable to get up for school the next day. Alison's mother had to be at work at 6:30 AM, so she was not at home in the mornings when Alison was supposed to leave for school. Alison could, therefore, easily skip school without her mother knowing about it, and often did.

Alison almost never did her homework. She was often too upset to concentrate and, after missing many classes, she was not able to understand the assignments. Her mother had barely finished high school herself, and was unable to help Alison with her homework. Alison was worried she would not pass the Massachusetts Comprehensive Assessment System (MCAS) test so her school enrolled her in a special after-school intense tutoring class with other students in danger of not passing. Alison attended for a few weeks, but then stopped attending, because she had trouble keeping up with the class material. The school did not call or notify her mother that Alison had stopped attending the special classes.

Alison usually went to school on Monday mornings to learn about weekend developments in her classmate's social lives, but often skipped school for the rest of the week. After a few weeks of this, the principal, Supervisor of attendance, or school counselor would

¹⁶ This is a true story of a student who the author knows personally. The student's name has been changed to preserve her anonymity.

call or come to Alison's home to talk to Alison and her mom about Alison's poor attendance record. They assured Alison's mom that if Alison attended school regularly, school officials would help her, her grades would improve, and she would do okay. Alison's mom would insist that Alison go to school every day. When Alison went back to school after a week or two of truancy, the school counselors would engaged Alison in discussions about her unstable home life. They gave her suggestions on how to navigate certain situations, and how to prevent confrontations from turning violent. The school did not schedule regular counseling sessions, nor were any formal evaluations ever conducted. The counselors told Alison to "come by" if she "needed to talk." Alison never sought out the school counselors.

When she did attend school regularly, Alison would struggle to understand the class material. She knew she would not get more than a few minutes of personal help from any teacher, and felt helpless about her chances of ever catching up and succeeding in school. Alison had anxiety attacks on the eve of almost every test and in anticipation of end-of-quarter report card issuance. She began to skip school again. After a week or so, someone from the school district called her mom to inquire about Alison's absence, and the cycle started all over again.

Alison dropped out of school completely shortly after turning 16. She is almost 19 now, still lives with her mother, does not have a job, and suffers from frequent anxiety attacks. Should the school district have evaluated Alison to see if she had a learning disability or an undiagnosed mental health need? Could the school district have provided regularly scheduled special assistance to help Alison understand her class work? Could an individualized assistance plan targeted at Alison's special needs and unique situation have helped keep her in school, and given her a better chance in life?

B. Narrow Problem and Proposed Solution

This report and accompanying bill focus on why truancy persists among students who are in need of special education and/or mental health counseling and live in low-income, single parent homes. Research demonstrates that while school districts have struggled to address the problem of truancy, truancy remains so common because many chronically truant students have undiagnosed special needs.¹⁷ Without services to address these needs, these students often continue to skip school. An effective solution to truancy must address the individual needs of each student and assemble counseling, special education, or other services that will help resolve each individual student's truancy causes.

The proposed solution will require school districts to conduct a special needs assessment for every student who skips school without medical excuse ten or more days in a school year quarter.¹⁸ The special needs assessment will evaluate whether the student has a learning disability, a mental health problem, or other counseling or tutoring need that, if satisfied, would help the student to succeed in school. The assessment should also include a meeting with the student's parents, and an in-home evaluation. Following the assessment, an individual truancy prevention plan (ITPP) should be developed by the school district (with input from the parents), signed by a school district official (e.g. the school principal or the Supervisor of attendance) and the parents. The ITPP will specify how the school district and the parents will provide tutoring, special education classes, mental health treatment, trauma counseling, or other services the student needs to be able to attend and succeed in school. The

¹⁷ Southwell, Truants on truancy, at p. 94.

¹⁸ The federal No Child Left Behind Act attendance benchmark for Massachusetts schools is an attendance rate of 92%. A student who misses 10 days in a school year (which has a total of 180 school days) has an attendance rate of 94.4%, which is exactly equal to Massachusetts's 2005-2006 state-wide average. Thus, this proposed solution will catch students who have attendance rates less than the state-wide average, and help prevent school districts from slipping below the federally-required 92% target.

ITPP should also include provisions for periodic communication between a school district official (e.g. the school principal or a school counselor) and the parents regarding the student's progress.

This report will explain how the accompanying bill will, if enacted and implemented, help reduce truancy among Massachusetts students who need special education and/or mental health counseling and live in low-income, single parent homes.

C. Context of the Truancy Problem

This section of the report will begin by exploring the extent of the truancy problem in Massachusetts and the societal costs of truancy. Although some of the harms associated with truancy may be obvious, understanding the full extent of the problem will help shed light on whose behaviors contribute to truancy, who is most harmed, and who (if anyone) benefits from the status quo. This section will also provide an overview of the educational system in Massachusetts and school attendance requirements in state law.

1. Extent of Truancy Problem in Massachusetts

In 2004, Massachusetts was ranked 27th of the 50 states for 16-19 year olds not in school and not working.¹⁹ At 9%, Massachusetts was tied with the national average for percentage of teens that were severely truant and/or drop-outs.²⁰ The national truancy rate increased by 67% from 1985 to 1998,²¹ but has held steady at 9% since 2000. The situation in Massachusetts has not stabilized. The Massachusetts truancy and drop-out rate has increased from 6% in 2000 to 9% in 2004.²²

¹⁹ The state ranked #1 had the lowest truancy / drop-out rate. See Kids Count Data Book, available at <http://www.aecf.org/kidscount/sld/databook.jsp>.

²⁰ See Kids Count Data Book, available at <http://www.aecf.org/kidscount/sld/databook.jsp>.

²¹ A Resource Guide for Virginia Schools, at p. 7.

²² See Kids Count Data Book, <http://www.aecf.org/kidscount/sld/databook.jsp>.

The federal No Child Left Behind Act²³ requires schools to maintain an overall attendance rate of at least 92% (equivalent to missing 14 school days in the 180-day school year) to be categorized as making “adequate yearly progress.”²⁴ The DOE collects school attendance data from each school district.²⁵ These School Data Reports indicate that state-wide, the average attendance rate in the 2005-2006 school year exceeded that benchmark at 94.4% (equivalent to missing 10 school days per year).²⁶ However, five school districts, including the first, second, and tenth largest (in terms of student enrollment) had attendance rates below 92%.²⁷ Students from low-income families make up more than 58% of the student body in four of those five districts.²⁸ Fifty-three Massachusetts school districts²⁹ had attendance rates below 94% (i.e. students missed more than 10 days per year on average)³⁰ in the 2005-2006 school year.³¹

2. Broad Harm: Truancy is a Nationwide Problem that Harms the Student and Society

When a student is truant, he or she often falls behind in school. The student will have a hard time catching up, become less confident with his or her ability to succeed in school, and

²³ No Child Left Behind Act of 2001, Jan. 8, 2002, P. L. 107-110, 115 Stat. 1425, 20 USCS § 6301

²⁴ No Child Left Behind: Brockton’s Struggle to Keep Students in School Requires Truant Officer to Blend Vigilance, Sympathy, *Boston Globe*, third edition, Globe South Section, p. 1, 5/5/05.

²⁵ See M.G.L. ch. 69, § 1i and <http://profiles.doe.mass.edu/>

²⁶ The average number of days that a student was absent was 9.4. See Massachusetts DOE School District Indicators at <http://profiles.doe.mass.edu/>

²⁷ See Massachusetts DOE School District Indicators at <http://profiles.doe.mass.edu/>

²⁸ See Massachusetts DOE School District “selected populations” at <http://profiles.doe.mass.edu/>. See A Resource Guide for Virginia Schools, at p. 7 (Truancy rates are higher among students from low-income families nationally, as well. “Low-income” status is measured by whether the student is eligible for free or reduced-price lunch).

²⁹ Not counting charter schools, which are generally considered to be one-school districts

³⁰ This report uses a 94% attendance rate as a cut-off because it is just worse than the state average.

Although the federal standard is 92%, some (including Karen Sarkisian, Superintendent of Whittier Vocational Technical School) require their students to maintain at least a 95% attendance rate. Ms. Sarkisian explained that students have a long summer vacation, three week-long breaks during the school year, and several other single holidays during the school year. Other than a serious and prolonged illness, there is no good reason for a student to miss more than 5% of school days. See 11/3/06 Interview with Karen Sarkisian, Superintendent of Whittier Vocational Technical School in Haverhill, Massachusetts.

³¹ See Massachusetts DOE School District Indicators at <http://profiles.doe.mass.edu/>

is much more likely to eventually drop out of school without earning a high school diploma.³²

Most students who drop out of school do not get an education sufficient to allow them to succeed later in life. In 1999, drop-outs were more than twice as likely to be poverty stricken as those that had completed high school.³³ Dropping out of school is also a strong indicator of child delinquency and later adult criminality.³⁴

When a truant student later becomes a drop-out, both the drop-out and the larger state and national society are harmed. In classrooms where several students are truant, the non-truant students also suffer.

a. Eventual Harm to Truant Student

Truants often become drop-outs and are more likely to abuse drugs and alcohol later in life.³⁵ Dropping-out of school before graduation severely limits the economic earning potential of the drop-out and negatively affects their quality of life. For example, a single female with a high school diploma is 60% more likely to have a job than one without a high school diploma or a passing score on the series of five General Educational Development (GED) tests.³⁶ In 1998, drop-outs were 75% more likely to be unemployed than high school graduates.³⁷ Even when a drop-out finds a job, it is often one providing little or no potential for professional growth.³⁸ In the United States, an adult without a high school diploma earns,

³² Garry, *Lifetime of Problems*, at p.1, available at <http://www.ncjrs.gov/pdffiles/truncy.pdf>.

³³ *A Resource Guide for Virginia Schools*, at p. 6.

³⁴ See <http://www.cnn.com/2006/EDUCATION/09/12/education.compared.ap/index.html>

³⁵ BBA *Report on Truancy*, at p. 27.

³⁶ American Association of University Women's *Welfare Reauthorization Position Paper*, available at http://www.aauw.org/issue_advocacy/actionpages/positionpapers/welfare_reauthorization.cfm

³⁷ *Why Students Drop Out of School and What Can be Done*, By Russell W. Rumberger University of California, Santa Barbara, pp. 2-3, Revised May 2001, available at <http://www.civilrightsproject.harvard.edu/research/dropouts/rumberger.pdf#search=%22why%20students%20drop%20out%20of%20school%22>, (citing U.S. Department of Education, National Center for Education Statistics, 2000, Figure 24).

³⁸ *Welfare Reauthorization Position Paper*, available at http://www.aauw.org/issue_advocacy/actionpages/positionpapers/welfare_reauthorization.cfm

on average, only 65% of what a high school graduate earns.³⁹ Unfortunately, GED and other vocational education programs do not significantly help close the earnings gap, because very few drop-outs seek out a GED or take part in the programs.⁴⁰ In addition to lower earning potential, drop-outs also tend to have less desirable working hours, more difficult unemployment experiences, shorter job tenures, and more health problems than high school graduates.⁴¹

b. Harm to Society

Chronic absenteeism from school is the most powerful predictor of juvenile delinquent behavior.⁴² For example, truants commit about half of all daytime crime in Dorchester.⁴³ Crime, even petty crimes of the sort committed by students skipping school (e.g. graffiti and shoplifting), costs society money: businesses lose revenue and the municipality must pay for additional law enforcement personnel. Truant students are also more likely to eventually engage in criminal behavior as adults.⁴⁴ For example, a young man who drops-out of high school is significantly more likely to be incarcerated by age 30-34 than one who has completed high school.⁴⁵

Because drop-outs suffer higher rates of unemployment and lower earnings, they contribute less money to the tax coffers and less productivity to the economy. When they do

³⁹ <http://www.cnn.com/2006/EDUCATION/09/12/education.compared.ap/index.html>

⁴⁰ Id.

⁴¹ Understanding Dropouts: Statistics, Strategies, and High-Stakes Testing (2001), Board on Testing and Assessment, Center for Education, pp. 24-25, 27, available at <http://darwin.nap.edu/books/0309076021/html/23.html>.

⁴² Garry, Lifetime of Problems, at p.1, available at <http://www.ncjrs.gov/pdffiles/truncy.pdf>.

⁴³ According to Boston Police Department, in BBA Report on Truancy, at p. 27.

⁴⁴ BBA Report on Truancy, at p. 27. See also <http://www.cnn.com/2006/EDUCATION/09/12/education.compared.ap/index.html>

⁴⁵ One study found that Black male drop-outs were 21% more likely to be incarcerated than Black males with a high school diploma. For White males, the increased risk is 3%. See <http://www.cnn.com/2006/EDUCATION/09/12/education.compared.ap/index.html>

⁴⁵ High-Stakes Testing at p. 26.

find work, many drop-outs still cannot earn enough money to keep themselves off public assistance.⁴⁶ Thus, state and federal government welfare programs spend more on an average drop-out than on an average high school graduate.⁴⁷

More immediately, in a class where many students often skip school, teachers feel they have to spend time during each class period reviewing what the absent students missed in previous class periods.⁴⁸ Those students that do attend regularly do not learn as much new material as they could learn or deserve to learn.⁴⁹ The *Boston Globe*⁵⁰ quoted one high school senior with a good attendance record as saying “These students are stopping us from learning something new.”

3. Overview of the Massachusetts Public Education System and the Roles of the Department of Education and School Districts in Making and Implementing Education Policy

The Massachusetts Department of Education (DOE)’s powers and duties include ensuring (1) that each public school classroom provides the conditions for all students to enjoy meaningful learning, (2) the existence of resources sufficient to provide a high quality public education to every child, (3) a deliberate process for establishing and achieving specific educational performance goals for every child, and (4) an effective mechanism for monitoring progress toward those goals and for holding educators accountable for their achievement.⁵¹

⁴⁶ More than one-third of all high school dropouts who were employed full-time in 1990 earned less than \$12,195 per year – the official poverty rate for a family of four (U.S. Bureau of the Census, 1992). See Rumberger, *Why Students Drop Out of School and What Can be Done*, at pp. 2-3. See also *High-Stakes Testing*, at p. 27.

⁴⁸ *Schools Confront High Truancy Rate*, by Beth Daley, Globe Staff, *Boston Globe*, city edition, Metro/Region section, p. B2:, 4/9/98.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See M.G.L. ch. 69, §1

DOE is also charged with assessing the effectiveness and monitoring the improvement of the public schools in each Massachusetts school district.⁵² A “school district”⁵³ is a municipal school department or regional school district, acting through its school committee or superintendent of schools.⁵⁴ Most school districts in Massachusetts are comprised of all the public schools in a single municipality (city or town) and are controlled by the officers of the municipality. Regional school districts are sometimes formed, upon approval of the DOE, by two or more municipalities wishing to pool their resources.⁵⁵

4. **Existing School Attendance Rules and Enforcement Measures**

State law requires that students between the ages of 6 and 16, who have not yet earned a high school diploma, attend school.⁵⁶ The “failure to cause” statute, enacted in (and not updated since) 1852, allows school districts to fine parents a maximum of \$20 per year⁵⁷ for failing to ensure that their children attend school. Another state law provides for fines up to \$200 against any adult (including a parent) who willfully induces a 6-16 year old to “absent himself from school.”⁵⁸

Under state law, every school committee must employ one or more Supervisors of attendance (Supervisors).⁵⁹ Unless the school committee gets a one-year exemption from the DOE, Supervisors of attendance must have at least two years of experience as a teacher,

⁵² See M.G.L. ch. 69, §1a

⁵³ There are approximately 380 school districts in Massachusetts. The smallest have fewer than 100 students enrolled; the largest (Boston) has over 57,000 students enrolled.

⁵⁴ See 603 C.M.R. 10.01

⁵⁵ See 603 C.M.R. 41.00

⁵⁶ See M.G.L. ch. 76, §1 (formerly M.G.L. ch. 766, §207).

⁵⁷ See M.G.L. ch. 76, §2. See also Weld says truancy should cost parents, by Karen Avenoso, *Boston Globe*, Metro Region p. C16, 3/20/97.

⁵⁸ See M.G.L. ch. 76, §4.

⁵⁹ See M.G.L. ch 76, §19. The committees of two or more towns may employ, and share, the same Supervisors of attendance.

guidance counselor, or law enforcement official working with juveniles; and a bachelor's degree with at least 18 semester hours in psychology, counseling, or social work.⁶⁰

The Supervisors have the duty to “inquire” into, and the authority to enforce, violations of the school attendance requirements of the Massachusetts General Laws.⁶¹ These laws and the DOE regulations promulgated thereto do not specify what actions the Supervisors must take or how schools or school districts should enforce anti-truancy laws or how they should try to prevent truancy. DOE's only active involvement in fighting truancy is that it administers a grant program which provides approximately \$1.25 million per year to programs that educate suspended and expelled students, and try to keep other at risk students in school.⁶²

Massachusetts General Laws ch. 119, §21 creates a juvenile non-criminal court system with a goal of providing services to status offenders such that they improve their behavior and do not eventually become juvenile delinquents or adult criminals. The statute defines a truant "child in need of services" (CHINS) as “a child between the ages of six and sixteen who persistently and wil[l]fully fails to attend school.” See Appendix B of this report for additional information about CHINS.

D. Analysis Methodology and Summary of the Argument

This research report uses a four-step methodology to analyze truancy in Massachusetts, and propose an effective solution. Specifically, this report explores why students with learning disabilities and/or mental health problems who live in low-income, single parent homes skip school, and why the current efforts of parents and school districts do

⁶⁰ See 603 CMR 13.01

⁶¹ See M.G.L. ch. 76, §§19 and 20.

⁶² See 10/19/06 Interview with Sylvia Smith of the Massachusetts Department of Education. See also line item # 7061-9614 of ch. 137 of 2006 acts. DOE grant code 790B.

not succeed in keeping these students in school. First this report identifies the truancy problem and the visible manifestations of the harm truancy causes.

The report then identifies the actors whose behaviors contribute to the problem of truancy among students with learning disabilities and/or mental health needs who live in low-income, single parent homes. Students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes often skip school. The parents of these students fail to ensure that their children attend school and receive the treatment necessary to address their special needs. School districts currently implement anti-truancy programs which provide a patchwork of services, but fail to adequately consider and address the needs of students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes.

The third step in the methodology explores the motivations for these actors' behaviors, specifically analyzing why each actor behaves in a manner that causes, exacerbates, or fails to help remedy, truancy. The fourth step crafts a solution, "An Act to Prevent Truancy," specifically targeted at changing the actor's motivations for their problematic behaviors. The methodology will show that the eventually-arrived at solution will enable and motivate the actors to behave in ways that will help reduce truancy among students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes.

II. The Narrow Problem Addressed by this Report and Bill: Despite Current School District Efforts, Chronic Truancy Persists Among Students with Undiagnosed or Untreated Learning Disabilities and/or Mental Health Problems who Live in Low-Income, Single Parent Homes

This part of the report will explain and justify the narrow focus of this report: students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes continue to skip school despite on-going efforts to curb truant behavior.

Nationally and in Massachusetts, students from low-income, single parent homes skip school more than any other student demographic.⁶³ In the four Massachusetts school districts with the worst attendance rates (i.e. the highest truancy rates) in the 2005-2006 school year, students from low-income families made up more than 58% of the student bodies.⁶⁴ More than 82% of truancy cases in the Suffolk County Children In Need of Services (CHINS) system in 1996-1997 were students from single parent homes.⁶⁵ Because they are at a greater risk for truancy, and because they comprise a significant portion of the truant population in Massachusetts, this report focuses on students from low-income, single parent homes.

Most truants read and write well below grade level, many before they start skipping school.⁶⁶ These students often have misdiagnosed or un-diagnosed learning disabilities, and have been placed in a class where they cannot keep up.⁶⁷ It is not uncommon for children to be incorrectly diagnosed with attention deficit disorder (ADD), when they should have been diagnosed with dyslexia.⁶⁸ These students feel frustrated at their inability to succeed in class and frequently embarrassed in front of their peers. They receive poor grades, but no help to improve them, and are admonished for their failures.⁶⁹

⁶³ A Resource Guide for Virginia Schools, at p. 8.

⁶⁴ See “selected populations” at <http://profiles.doe.mass.edu/>

⁶⁵ BBA Report on Truancy, at p. 22. Data on family structure of CHINS cases is not currently compiled. Therefore there is no more recent data available.

⁶⁶ Id. at 20.

⁶⁷ Williams Interview (9/20/06).

⁶⁸ Id.

⁶⁹ Esposito, Educational & Mental Health Neglect Leads to Truancy, at p. 5, available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf

Students who experience these situations day after day, month after month, and year after year, often feel trapped and helpless. They often develop anxiety disorders or depression.⁷⁰ In some cases, the learning disability is not diagnosed and treated before the student becomes so disillusioned with school that he or she stops attending regularly.⁷¹ In the worst cases, the student's anxiety or depression disables them to such an extent that they are unable to attend school.⁷² For other students, mental health problems unrelated to the school environment have a detrimental effect on the student's ability to learn, and ultimately lead to academic struggles and truancy.⁷³

One student from California, named Jenny,⁷⁴ struggled to learn how to read and write. Jenny's low-income, single mother borrowed money from friends and family so that she could have Jenny assessed for learning disabilities. Although the assessment demonstrated that Jenny needed special instruction, her school district did not provide teachers trained to teach students with Jenny's special needs. Jenny continued to attend regular classes and tried to learn to read and write, but with no success. When she was 17, she became depressed (as a result of her continued failure and the futility of going to class) and stopped attending school. Jenny and her mother were summoned to court, admonished for Jenny's truancy, and ordered to pay a fine. Upon leaving the courtroom, Jenny told a child advocate who volunteered to represent her "It would be better for my mother if I was dead."

⁷⁰ *Id.* at 8-10.

⁷¹ Southwell, *Truants on truancy*, at p. 94.

⁷² Esposito, *Educational & Mental Health Neglect Leads to Truancy*, at p. 8, available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf.

⁷³ For example, anxiety disorders can affect a child's thinking, decision-making ability, perceptions of the environment, learning and concentration. See Goldman, *A pediatrician's guide*, available at http://www.keepkidshealthy.com/welcome/conditions/anxiety_disorders.html. See also *Helping Traumatized Children Learn*, at pp. 3-5, available at <http://www.massadvocates.org>. See also Southwell, *Truants on truancy*, at p. 94.

⁷⁴ The student's name was changed to preserve her anonymity. Her story is excerpted from: Esposito, *Educational & Mental Health Neglect Leads to Truancy*, at p. 2, available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf

As Jenny's story (and others like hers) demonstrates, truancy is not always a disciplinary problem. Many truants have undiagnosed or untreated learning disabilities and/or mental health problems and are driven to truancy despite their best efforts. This report will explore how and why students like Alison and Jenny skip school, how their school districts and parents behave in response to their special needs and their truancy, and why the system too often fails to provide a solution to their truancy. The proposed bill aims to ensure that students like Jenny and Alison (i.e. those with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes) are identified and treated so that they do not become chronic truants and drop-outs.

The next two sections will explore why students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes skip school; which adults are responsible for preventing their truancy and what actions these adults take that affect truancy.

III. Behaviors of Students, Parents, and School Districts

This part of the report will explore what behaviors contribute to the problem of truancy. A successful solution to truancy must change the behaviors that most directly contribute to the problem. While many actors behave in ways that contribute to the truancy problem, this report focuses on the behaviors of students with learning disabilities and/or mental health problems, their low-income single parents, and their school districts. To motivate students, parents, and school districts to change their behaviors, it is necessary to investigate what prompts their current (and often inadvertent) truancy-enabling behaviors.

Fully describing the behaviors is a key first step to understanding what motivates them, and creating an effective solution.

This part of the report will explore how students skip school, and the adult behaviors that enable truancy. The vast majority of adults in society do not purposefully behave in a manner that promotes truancy, and the analysis of their behavior is not intended to assign blame. As is explored in Part IV, many of the truancy-causing behaviors of students, parents, and school districts are motivated by lack of practical alternative rather than a desire to cause harm.

Students with undiagnosed or untreated learning disabilities and/or mental health problems from low-income, single parent homes often skip school. Children from low-income single parent homes are often given some responsibility for getting themselves to and from school. Because he or she is not being physically transported to school by a parent, the student has the option to not go to school. The student's choice to attend school or not is often influenced by his or her struggles with learning disabilities or mental health problems.

School districts currently implement anti-truancy programs which provide a patchwork of services, but fail to adequately consider and address the needs of students with undiagnosed or untreated learning disabilities and/or mental health problems from low-income, single parent homes. These programs include monetary fines for the parents of truants, disciplinary action against the truant students, and occasional court intervention. After the parents, schools have the most frequent contact with students, giving them the opportunity to reach out to and help a troubled student. Although current research demonstrates that chronic truancy is often caused by learning disabilities and mental health problems,⁷⁵ school

⁷⁵ Southwell, Truants on truancy, at p. 92.

districts usually do not include identification and treatment of these problems in their anti-truancy programs.

Low-income, single parents of children with undiagnosed or untreated learning disabilities and/or mental health problems fail to ensure that their children attend school and receive the treatment necessary to keep them in school. In most cases, the parents provide necessities, instill values about education, and are the primary source of authority in a student's life. The rules a parent sets for his or her child, the way that the parent enforces those rules, and the attitudes and values that the parent teaches his or her child, have a significant effect on the student's school attendance.⁷⁶

Not all students with learning disabilities and/or mental health problems become truants, but too many from low-income, single parent homes do. The next section will explore why so many students with this combination of characteristics skip school so frequently, and why the efforts of their parents and school districts do not result in a permanent solution to the student's truancy.

IV. Explaining the Behaviors that Contribute to the Problem of Truancy among Students with Learning Disabilities and/or Mental Health Problems who Live in Low-Income Single Parent Homes

As explained in the above section, many behaviors contribute to the problem of truancy among students with undiagnosed learning disabilities and/or mental health problems

⁷⁶ Some parents actively prevent their children from attending school. For example, a parent may want or need the student to skip school to baby-sit younger siblings while parent works, or to help with chores around the house. Susan Szachowicz, Brockton High School principal, quoted in *Brockton's Struggle*, *Boston Globe*, at p. 1. Some other parents, who do not speak English, but whose children do, take their children out of school to translate for the parent at a medical or other appointment. See *A Resource Guide for Virginia Schools*, at p. 22. These parents are in the minority and are beyond the scope of this report.

who live in low-income, single parent homes. This section will analyze the explanations for these behaviors.

The behaviors of the students, the school district, and the parents are affected by: the rules that govern their behavior, how well each understands the rules, each actor's capacity to comply with those rules, what behavior (irrespective of the rules) each perceives to be in his or her best interest, what opportunities (such as lax rule enforcement) each has to ignore the rules where they conflict with self-interest, and the personal values and beliefs of each actor. The behavior of the school district is also influenced by the process by which the district's governing body receives information and makes decisions based on that information.

A. Some students with undiagnosed or untreated learning disabilities and/or mental health problems who live in low-income, single parent homes often skip school

1. Mandatory testing laws aimed at promoting higher academic standards make some struggling students extremely apprehensive about attending school

Education laws and policies link student promotion and graduation to performance on tests, such as the MCAS test.⁷⁷ Some students with untreated learning disabilities or mental health problems that impede their ability to keep up with their classmates in basic skills like reading and mathematics fear that poor performance on these tests will result in embarrassment, and may skip school to avoid the embarrassment.⁷⁸ These students figure they

⁷⁷ See 603 C.M.R. 30.00 *et seq.* See also Rumberger, Why Students Drop Out of School and What Can be Done, at p. 3.

⁷⁸ Fear of failing a graduation test increases the likelihood that low achievers will leave school, and places new pressures on schools to increase student pass rates, which in turn can lead to increased and/or understated dropout rates. High Stakes Testing: Opportunities and Risks, Jay P. Heubert, J.D., Ed.D. Teachers College, Columbia University, Columbia Law School. Written with support from the National Center on Accessing the General Curriculum, U.S. Department of Education, Office of Special Education Programs (OSEP). See http://www.cast.org/publications/ncac/ncac_highstakes.html.

could never pass the tests required for graduation, and therefore believe that attending school is a waste of time.⁷⁹

2. Some school rules aimed at preventing truancy sometimes inadvertently promote truancy, especially among students already struggling in school because of learning disabilities or mental health problems

In an effort to hold their students to high standards, in all cases of absence (excused or not), the school gives the student the opportunity and responsibility to make up the missed school work.⁸⁰ Students who fall too far behind in school work often find it easier to skip more school than try to make up the already-missed work. Therefore, to prevent a single absence from becoming a truancy problem, schools often require absent students to immediately catch up. At Briscoe Middle School in Beverly, students absent for one day must make up all the missed homework the day they return to school. So, a student who missed school due to illness on Tuesday, but is back at school Wednesday will have all of Tuesday night's homework and all of Wednesday night's homework due on Thursday. The parent of one Briscoe student⁸¹ who often gets two to three hours of homework per night explained that her child was still getting over being sick, and should have gone to bed early on Wednesday night. Instead the student spent five hours doing homework Wednesday night, and went to bed too late. As a result the student was too tired to attend school on Thursday. This well-intentioned rule actually resulted in motivating students to follow a single day of absence with another and another, creating a cycle of truancy.⁸²

⁷⁹ Rumberger, Why Students Drop Out of School and What Can be Done, at p. 3.

⁸⁰ Superintendent's Circular, Attendance Procedures, School Year 2006-2007, Boston Public Schools, 9/1/06, page 8.

⁸¹ 11/8/06 interview with Denny Dart.

⁸² Southwell, Truants on truancy, at p. 95.

3. Poverty and instability in the home and learning disabilities can cause mental health problems that limit the student's ability to function productively at school

Children need stability to thrive.⁸³ Low-income single parents frequently experience considerable stress in trying to make ends meet.⁸⁴ Children can tell when their parents are upset and it makes them feel uneasy.⁸⁵ Family stress and conflict at home can render a student mentally incapable of focusing on school.⁸⁶ An unstable home environment often gives the student anxiety and interferes with his or her ability to sleep.⁸⁷ Research demonstrates that mental health interventions are often necessary to help students in this situation cope with anxiety and focus on school work.⁸⁸

⁸³ The Effects of Partnership Instability on Parenting and Young Children's Health and Behavior, Princeton University, October 2004. See <http://industries.bnet.com/whitepaper>. See also Family Instability and Selection Effects on Children, by Paula Fomby and Andrew J. Cherlin, *Johns Hopkins University* (2005), available at <http://paa2005.princeton.edu/download.aspx?submissionId=50118> (Children's development is negatively affected by disruption). See also Helping Traumatized Children Learn, at p. 15, available at <http://www.massadvocates.org>.

⁸⁴ The Ballad of the Working Mother, by Lynn Olcott, *Newsweek*, 10/30/06, p. 22 (volume CXLVIII, No 18)

⁸⁵ Children's responses to low parental mood. I: Balancing between Active Empathy, over-involvement, indifference, and Avoidance, by SOLANTAUS-SIMULA Tytti; PUNAMÄKI Raija-Leena; BEARDSLEE William R, vol. 41, n°3 *J. Am. Acad. Child Adolesc. Psych.*, pp. 278-286 (2002), available at <http://cat.inist.fr/?aModele=afficheN&cpsid=13516888> (Children are sensitive members of their families and feel for their parents. Many of these children become depressed and externalize symptoms).

⁸⁶ BBA Report on Truancy, at p. 9 (citing 1989 Special Legislative Commission on Children in Need of Services "In Trouble, Children and Families in Need of Services") and p. 18 (citing interviews with Supervisors of Attendance on causes of truancy).

⁸⁷ Id. at 20.

⁸⁸ See Goldman, A pediatrician's guide, available at http://www.keepkidshealthy.com/welcome/conditions/anxiety_disorders.html ("The subjective experience of anxiety typically has two components: physical sensations (e.g., headache, nausea, sweating) and the emotions of nervousness and fear. Anxiety disorders, when severe, can affect a child's thinking, decision-making ability, perceptions of the environment, learning and concentration. It raises blood pressure and heart rate, and can cause a multitude of bodily complaints, such as nausea, vomiting, stomach pain, ulcers, diarrhea, tingling, weakness, and shortness of breath, among other things. Treatments include

- Cognitive-Behavioral Therapy: addresses underlying "automatic" thoughts and feelings that result from thoughts, as well as specific techniques to reduce or replace maladaptive behavior patterns
- Psychotherapy: Centers on resolution of conflicts and stresses, as well as the developmental aspects of an anxiety disorders solely through talk therapy
- Behavioral Therapies: focus on using techniques such as guided imagery, relaxation training, progressive desensitization, flooding as means to reduce anxiety responses or eliminate specific phobias."

Most truants read and write well below what is acceptable for their grade level, many before they start skipping school.⁸⁹ This is often because the student has a learning disability that is misdiagnosed or un-diagnosed, and the student was placed in a class where he or she could not keep up.⁹⁰ It is not uncommon for children to be incorrectly diagnosed with attention deficit disorder (ADD), when they should have been diagnosed with dyslexia.⁹¹ These students feel frustrated at their inability to succeed in class and frequently embarrassed in front of their peers. They receive poor grades and punishment for their failures, but do not receive sufficient help.⁹²

Students who experience these situations day after day, month after month, and year after year, often feel trapped and helpless. They often develop anxiety disorders or depression.⁹³ In some cases, the learning disability is not diagnosed and treated before the student becomes so disillusioned with school that he or she stops attending regularly. In the worst cases, the student's anxiety or depression disables them from being able to attend school.⁹⁴ For some other students, the mental health problems (such as anxiety and depression) are not initially caused by the school environment, but have a detrimental effect on the student's ability to learn, and ultimately lead to academic struggles and truancy.⁹⁵

4. Many students from low-income single parents homes are not supervised during the day and therefore can elude conventional anti-truancy efforts of their parents and school districts

⁸⁹ BBA Report on Truancy, at p. 20.

⁹⁰ Williams Interview (9/20/06).

⁹¹ Id.

⁹² Esposito, Educational & Mental Health Neglect Leads to Truancy, at p. 5, available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf

⁹³ Id. at 8-10.

⁹⁴ Id. at 8.

⁹⁵ For example, anxiety disorders can affect a child's thinking, decision-making ability, perceptions of the environment, learning and concentration. See Goldman, A pediatrician's guide, available at http://www.keepkidshealthy.com/welcome/conditions/anxiety_disorders.html

If a student's parent does not know or does not mind⁹⁶ that the student skips school, the student can avoid immediate punishment. Most Massachusetts school districts have computer systems that call a parent at home when the student does not show up for school.⁹⁷ However, these calls often come in mid morning or late afternoon. Because many single parents are at work during this time of day, the student can easily intercept the automatic calls so the parent does not find out.⁹⁸

The CHINS statute requires the Supervisor of attendance to prove that a student's truancy is "persistent" in order for the student to be adjudicated a child in need of services and for the court to have any authority over the situation.⁹⁹ The statute does not specify the number of school days that a student must miss before the truancy is considered "persistent." However, because the statute requires that the persistence be proven beyond a reasonable doubt, students can avoid having their truancy qualify as persistent by attending school consistently for a few weeks until the counselors and Supervisors of attendance think that they have "solved" the student's problem.¹⁰⁰ Then, when counselors and Supervisors of attendance are no longer paying close attention to that student (likely because there are other truants to track down), the student can start skipping school again.¹⁰¹ When the Supervisor or school counselor starts inquiring into the student's attendance status again, the student will start attending school regularly for a few weeks, and repeat the cycle.¹⁰²

⁹⁶ BBA Report on Truancy, at p. 9 (citing 1989 Special Legislative Commission on Children in Need of Services "In Trouble, Children and Families in Need of Services.")

⁹⁷ A Resource Guide for Virginia Schools, at p. 26. See also 11/3/06 Interview with Karen Sarkisian, Superintendent of Whittier Vocational Technical School in Haverhill, Massachusetts.

⁹⁸ A Resource Guide for Virginia Schools, at p. 26.

⁹⁹ See M.G.L. ch. 119, §39E. See also Appendix B to this report.

¹⁰⁰ James interview (11/6/06).

¹⁰¹ Id.

¹⁰² Id.

5. Many students with untreated learning disabilities or mental health problems cannot keep up with class work, do not enjoy school, and do not feel welcome or safe at school

Some struggling students frequently feel embarrassed in front of peers at school, because they do not know answers to a teacher's questions.¹⁰³ Some students who fall behind or struggle to understand the class material find it easier to stop attending school than to try to catch up.¹⁰⁴ A student who has been truant and starts attending school again often does not get any assistance catching up on missed school work. This causes the student to remain behind in class and creates a cycle of problems that motivate his or her truancy.

A frustrated student who cannot keep up with class work often acts out and is punished by the teachers and administrators for bad behavior.¹⁰⁵ After just a few episodes, the teachers and staff "brand" the student as a trouble-maker, and the student does not feel welcome at school.¹⁰⁶ The relationship between the teachers/administrators and the student then becomes adversarial, instead of pedagogical and productive.¹⁰⁷ A student repeatedly punished does not relish the thought of attending school, and many parents who see their child repeatedly singled out and disliked by the school authorities may side with the student and not want him or her to attend school.¹⁰⁸

Some students have emotional or social problems that make them fear socially dynamic situations, such as school.¹⁰⁹ Students who have experienced or witnessed abuse in

¹⁰³ Williams Interview (9/20/06).

¹⁰⁴ BBA Report on Truancy, at p. 21.

¹⁰⁵ Williams Interview (9/20/06).

¹⁰⁶ Southwell, Truants on truancy, at p. 93. See also Williams Interview (9/20/06). See also BBA Report on Truancy, at p. 9 (citing 1989 Special Legislative Commission on Children in Need of Services "In Trouble, Children and Families in Need of Services.")

¹⁰⁷ Williams Interview (9/20/06).

¹⁰⁸ Southwell, Truants on truancy, at pp. 93-95.

¹⁰⁹ A Resource Guide for Virginia Schools, at p. 7.

their homes are especially vulnerable when they feel unsafe.¹¹⁰ It is not always clear to the student what about a certain environment (such as school) makes him or her feel unsafe, but the student often manifests the fear by misbehaving or by disengaging completely from class discussion and social interaction.¹¹¹ Teachers who do not understand the reasons for these behaviors often punish the student, thereby exacerbating the student's fear of the school environment.

6. Many students with learning disabilities or mental health problems who live in single parent homes do not value education

Groups of children have their own unspoken rules about what makes someone “cool” enough to be a welcome member of the group. Children in early adolescence are especially susceptible to social pressures to conform. Peer pressure¹¹² greatly affects whether a student wants to attend school. Some students skip school because they have been pressured by friends to do so. A student who struggles academically (perhaps because of a learning disability or mental health problem), is unlikely to be accepted into a peer group of successful students who consider scholastic aptitude to be “cool.” The struggling student would like to believe that the object of his or her difficulties (i.e. school) is unimportant and the student is therefore more likely to befriend children who do not value, and frequently skip, school.

Many students from lower income families lack successful role models who value education and have used an education to their advantage.¹¹³ Without those role models, the student does not value education, and lacks clear goals.¹¹⁴ The student is not inclined to think

¹¹⁰ Helping Traumatized Children Learn, at p. 3, available at <http://www.massadvocates.org>

¹¹¹ Id. at 4-5.

¹¹² BBA Report on Truancy, at pp. 18 and 21.

¹¹³ Differences In Educational Achievement for Low Income Black Males and Females, by Christopher Wheat (May 27, 1997) at <http://www.wjh.harvard.edu/~cwheat/malefemale.html>.

¹¹⁴ BBA Report on Truancy, at p. 9 (citing 1989 Special Legislative Commission on Children in Need of Services “In Trouble, Children and Families in Need of Services”). See also Wheat, Differences In Educational Achievement for Low Income Black Males and Females (Decisions that are made by youths are guided by their

about, or plan for, the future. Without goals or a future to plan for, school does not seem to have a purpose.¹¹⁵ A student who struggles to succeed in school will not be motivated to try harder or seek out teacher or counselor assistance if the student does not think the success has ultimate value.

B. School districts provide a patchwork of services that do not adequately consider and address the special education or mental health needs of students who live in low-income, single parent homes

In their efforts to fight truancy (as in their day to day actions on other matters) schools, principals, teachers, and Supervisor of attendance act as agents of the school district. This section explains the typical responsibilities and behaviors of the school district and its agents in fighting truancy, and why the school district and its agents fail to adequately consider and address the needs of chronically truant students with undiagnosed or untreated learning disabilities and/or mental health problems from low-income, single parent homes.

1. School districts, governed by an elected school committee and managed by a superintendent, create and implement policies to fight truancy

Citizens of the municipality (or municipalities) within a school district elect school committee members. By vote of its members, the school committee determines the policies of the school district and employs a superintendent to implement the committee's policies.¹¹⁶ The school committee must be responsive to the community it serves, but as a legal agent of the state, must also fulfill state and federal education mandates.¹¹⁷ The superintendent manages the school district's day-to-day operations, and supervises individual school

expectations of their employment opportunities, which are in turn shaped by the employment patterns they observe within their local communities.)

¹¹⁵ *Brockton's Struggle*, *Boston Globe*, at p. 1.

¹¹⁶ See M.G.L. ch. 71, §52.

¹¹⁷ *Roles and Relationships: School Boards and Superintendents*, American Association of School Administrators and the National School Boards Association, (1994).

principals and other staff.¹¹⁸ The school committee creates general disciplinary policies for students in the district, but has the option to delegate to the superintendent and principals the authority to define detailed rules of student conduct for specific schools.¹¹⁹

2. No law dictates how school districts have to address truancy or requires school districts to conduct a special education needs assessment unless a parent or teacher requests one

The Commonwealth has various laws,¹²⁰ and the Board of Education (BOE) has promulgated various regulations,¹²¹ governing educational requirements. For example, the laws and regulations address how school districts provide for students with special needs,¹²² student attendance requirements,¹²³ school year length,¹²⁴ vocational programs,¹²⁵ teacher certification requirements,¹²⁶ and student achievement testing,¹²⁷ among other things.

The No Child Left Behind Act has attendance and scholastic achievement requirements.¹²⁸ In order to show “adequate yearly progress” and avoid the “needs improvement” designation Massachusetts schools must have an average annual attendance rate of 92%. However, no law dictates how school districts should attempt to achieve the 92% attendance rate.

a. Special education laws require school districts to conduct a special education assessment only upon request

¹¹⁸ See November 1995 Letter on School Governance from Robert V. Antonucci, Commissioner of Education, <http://www.doe.mass.edu/lawsregs/advisory/cm1115gov.html>

¹¹⁹ See M.G.L. ch. 71, §§37H and 59C

¹²⁰ See M.G.L. chapters 69-78A

¹²¹ The BOE promulgates regulations. The DOE implements and enforces those regulations. For authority to promulgate regulations, see M.G.L. ch. 69, §1b. For regulations themselves, see 603 C.M.R. 1.00 – 47.00.

¹²² See, for example, M.G.L. ch. 71B and 603 C.M.R. 18.00 and 28.00

¹²³ See, for example, M.G.L. ch. 76 and 603 C.M.R. 13.00 and 27.00

¹²⁴ See 603 CMR 27.00 for minimum learning / instruction time requirements.

¹²⁵ See, for example, M.G.L. ch. 69, §§1d, 1f and ch. 74 and 603 C.M.R. 4.00

¹²⁶ See, for example, M.G.L. ch. 69, §6 and 603 C.M.R. 6.00 and 35.00

¹²⁷ See, for example, 603 C.M.R. 30.00

¹²⁸ No Child Left Behind Act of 2001, Jan. 8, 2002, P. L. 107-110, 115 Stat. 1425, 20 USCS § 6301

The federal Individuals with Disabilities Education Act (IDEA) provides federal funds to states in an effort to ensure that each child with a disability obtains a free, and appropriate, public education.¹²⁹ IDEA requires that any school district that receives federal funding of any kind 1) identify and evaluate students with disabilities, 2) assemble a multi-disciplinary team to create an individual education plan (IEP) for each student with a disability, and 3) provide each disabled student a free and appropriate education, that includes (to the extent possible) co-education with children who are not disabled.¹³⁰ The United States Department of Education has promulgated regulations implementing IDEA.¹³¹

Some children with disabilities who are not eligible for special education programs and services under IDEA may be eligible for services under Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified individuals with disabilities.¹³² Unlike IDEA, the Rehabilitation Act of 1973 addresses – as a civil rights issue – services and programs for people with disabilities, and does not specifically target schools or special education.¹³³ Section 504 of the Act does, however, include requirements related to education for those with disabilities in elementary school through college.¹³⁴

Massachusetts special education law¹³⁵ and Massachusetts DOE regulations¹³⁶ implement the federal requirements in the Commonwealth, such that if a parent or teacher is concerned about a child's progress in school, or thinks that the child may need special education services to succeed in school, the parent or teacher can request that the school district assemble a multi-disciplinary team to conduct a special assessment of the student's

¹²⁹ See 20 U.S.C. §§1400 *et seq.*

¹³⁰ See 20 U.S.C. §§1400 *et seq.* See also <http://kohl.senate.gov/idea.pdf>

¹³¹ See 34 C.F.R. §300.1 *et seq.*

¹³² See 29 U.S.C. § 701 *et seq.*

¹³³ See 29 U.S.C. § 701 *et seq.*

¹³⁴ See 34 C.F.R. Part 104 for U.S. Department of Education regulations implementing Section 504.

¹³⁵ See M.G.L. ch. 71B

¹³⁶ See 603 C.M.R. 28.00 *et seq.*

needs.¹³⁷ If the assessment shows that the student has special education, physical health, or mental health needs, the school develops and implements an IEP for the student.¹³⁸ In accordance with the federal requirements, the school district pays for the evaluation and IEP implementation. The Massachusetts DOE, using federal and state funds, reimburses school districts for a portion of their special education costs.¹³⁹

b. School districts provide a patchwork of services that do not usually result in a long-term solution to a student's truancy

Each of the approximately 380 school districts in Massachusetts develops its own policies and methods for addressing truancy.¹⁴⁰ In most school districts, the school contacts the student's parents and tries to help the family resolve any truancy-causing problem before the school refers the student's case to the school district's Supervisor of attendance. The Supervisor will then make home visits and attempt to assemble some counseling for the student. If that is unsuccessful, the Supervisor is likely to refer the student to CHINS.

i. School districts have the opportunity to avoid dedicating effort and resources to the truancy problem

State law requires each school district to employ a Supervisor of attendance,¹⁴¹ who has the duty to "inquire" into, and the authority to enforce violations of the school attendance requirements in chapter 76 of the Massachusetts General Laws.¹⁴² These laws and the DOE regulations promulgated thereto do not specify what actions the Supervisors must take or how school districts should enforce anti-truancy laws or how they should try to prevent truancy.¹⁴³

¹³⁷ See 603 C.M.R. 28.04(1)

¹³⁸ See 603 C.M.R. 28.00

¹³⁹ See the Massachusetts Department of Education Special Education Finance web site at <http://finance1.doe.mass.edu/seducation/> for the latest updates.

¹⁴⁰ Gilbert interviews (10/11/06 and 11/3/06)

¹⁴¹ See M.G.L. ch. 76, §§19 and 20.

¹⁴² *Id.*

¹⁴³ BBA Report on Truancy, at p. 33.

There are so many parties potentially responsible for taking anti-truancy action (e.g. the parents, the school, the Supervisor, the CHINS court, etc.) that no one within the school district, nor the school district itself, are on the hook to solve the problem.

Prior to January 2001, DOE regulations required that the school district conduct a special education assessment on any child who was absent without medical excuse for more than 15 days in a school quarter.¹⁴⁴ Even under this old regulation, school districts had latitude to determine the scope of any such assessment triggered by truancy. An assessment of limited scope would be less likely to find an array of educational and mental health problems, and the school district would be less likely to have to fund these special services. Current law does not require the school district to conduct a special education assessment for a severe truancy case. Therefore, school districts often refer a truant to CHINS before conducting an assessment.¹⁴⁵ If the CHINS probation officer meets with the student and determines that he or she could have benefited from special education services, the student will often be caught between dueling agencies and not get the services he or she needs.¹⁴⁶ The CHINS court cannot order the school to provide the services. Some school districts do not believe that they are not required to provide any anti-truancy services after a CHINS referral.¹⁴⁷

ii. Anti-truancy efforts by the student's school usually consist of outreach to the parents

In Boston Public Schools (BPS), district policy requires the individual schools to take certain actions to try to address a student's truancy before the system's Supervisors of

¹⁴⁴ Regulation was found at 603 C.M.R. 310.1(d). This section was deleted in January 2001, and the DOE regulations were renumbered. Special education assessment requirements that remain in the regulations are now found at 603 C.M.R. 28.00. Also note that student who misses 15 days in a 180-day school year has an attendance rate of 91.7%.

¹⁴⁵ James interview (11/6/06).

¹⁴⁶ Id.

¹⁴⁷ In this case, the court may, at the probation officer's recommendation, appoint a guardian at litem to lobby the school district on behalf of the child. However, neither the guardian at litem, the probation officer, nor the court can order the school district to do anything.

attendance get involved. During the first week of school, homeroom teachers make personal calls to parents to personally introduce themselves, explain the attendance policy, and answer any questions.¹⁴⁸ Then, according to the policy, after the first absence, the homeroom teacher should contact the parent.¹⁴⁹ In reality, this does not always happen, because the teachers cannot reach the parents or do not have time to call because they have too many other teaching obligations.¹⁵⁰ Some BPS schools use automatic (computerized) calling systems which, after 9 AM each day, call the parent of any student not in school that day.¹⁵¹ According to the policy, after the third absence, the school must notify the parents in writing (in the language of the home), reminding them of the attendance requirements.¹⁵²

After the third absence, the homeroom teacher should (per the policy) also refer the case to the Student Support Team.¹⁵³ Each middle and high school in the Boston Public School district has a Student Support Team comprised of guidance counselors, the school nurse, the special education teacher, and other interested staff.¹⁵⁴ School staff members refer students to the Support Team when they observe a serious behavior problem, such as truancy.¹⁵⁵ The BPS policy requires the Team to meet weekly, but Teams at many schools are unable to do so, because the number of guidance counselor, nurse, special education, and other support staff positions has been cut due to a system-wide budget crunch.¹⁵⁶

The larger school districts, such as Boston and Worcester, have a Counseling and Intervention Center (a single site for the whole school district) where students with severe

¹⁴⁸ Superintendent's Circular at p. 4.

¹⁴⁹ Id. at 9.

¹⁵⁰ 11/13/06 interview with Andy Tuite, Principal, Cleveland Middle School (Dorchester)

¹⁵¹ Id.

¹⁵² Superintendent's Circular at p. 9.

¹⁵³ Id.

¹⁵⁴ Clancey interview (10/16/06).

¹⁵⁵ Id.

¹⁵⁶ Id.

behavior problems can be sent by their home school for up to two weeks. While there, students receive services from special education teachers, psychologists, and others; and do work assigned by the home school. Although the Center can be helpful, it keeps the student away from his home school for even longer and may make it even harder for the student to reintegrate into the social and classroom fabrics of his or her home school. When learning disabilities and/or mental health problems are the causes of truancy, two weeks of intensive assistance is unlikely to be an adequate long-term solution. These problems require on-going individualized services.

iii. Anti-truancy efforts by the Supervisor of attendance are often hampered by inefficiencies

The BPS district policy requires the school to refer a student's truancy case to the Supervisors of attendance after the fifth unexcused absence. Supervisors of attendance have sole responsibility for addressing a student's truancy problems unless or until the Supervisor files a CHINS application for that student.¹⁵⁷ The school districts rarely attempt to collect the \$20 fine provided for in the "failure to cause" statute, because it costs more than \$20 in staff time just to prepare and file the necessary court action,¹⁵⁸ and because a \$20 fine is not a significant deterrent in most cases. Collection of the \$200 fine requires a sworn statement by the Supervisor as to the willfulness of the behavior of the parent's (or other adult's) directed at keeping the student out of school.¹⁵⁹ Because the standard of proof is higher – requiring a showing of willfulness – this fine is more difficult to successfully collect.

¹⁵⁷ Many officials who work in education in Massachusetts use the term "CHINS referral" to mean that a CHINS application was filed with the CHINS court. This report also occasionally uses the term CHINS referral in this manner.

¹⁵⁸ Avenoso, *Weld says truancy should cost parents*.

¹⁵⁹ *Superintendent's Circular* at p. 19.

Supervisors do their best to assemble a patchwork of tools from which they try to help students, families, and schools solve students' truancy problems. Most Supervisors will file a CHINS petition application only as a last resort, where the child continues to miss school despite the efforts of the parent.¹⁶⁰ Not all Supervisors of attendance refer truants to the CHINS system. Those Supervisors that do refer employ different criteria for what triggers a referral.

Because no laws mandate exactly what the Supervisor must do,¹⁶¹ he or she has a lot of discretion to choose how best to address each student's truancy. Supervisors often begin their work on a student's case by making a home visit. If the parents agree that the child should be in school, but there are confounding factors, some Supervisors refer the child to the school itself for special services (i.e. to the school nurse for physical health problems, or to the school counselor for mental health problems).¹⁶² However, because it was the school that initially referred the student's case to the Supervisor, referral back to the school without further assessment or evaluation of what types of services the student needs is not likely to be helpful.

A Supervisor in Boston can also refer the case of a truant middle school student to the Community-Based Juvenile Justice Roundtable (CBJJR). The CBJJR was created several years ago by a Suffolk County District Attorney to "identify and develop innovative intervention strategies for juveniles at risk for developing delinquent behavior."¹⁶³ The CBJJR was intended to bring together representatives of the District Attorney's office, probation, Boston Police Department, Department of Youth Services, Department of Social

¹⁶⁰ Clancey interview (9/20/06). See also Superintendent's Circular at p. 18.

¹⁶¹ BBA Report on Truancy, at p. 33.

¹⁶² Clancey interview (9/20/06).

¹⁶³ See <http://ci.lexington.ma.us/Police/ProgramsServices.htm>

Services, Department of Mental Health, with the School Headmaster or Superintendent, Student Support Team Chairperson, the Supervisor of attendance.¹⁶⁴ At the roundtable participants – who are bound by confidentiality and do not take written notes – discuss, and try to develop plans for, students who need coordinated services from several different entities.¹⁶⁵ The physical presence around a table is essential, because confidentiality regulations of the different agencies and departments prevent sharing documentation about a student.¹⁶⁶ When representatives from the various entities attend, the system is quite helpful; but the Department of Social Services has participated in almost no roundtables for the past 1-2 years.¹⁶⁷ Although it is not meant exclusively for students who have already committed some kind of minor juvenile crime, that tends to be the focus of the roundtable, to the virtual exclusion of students struggling with learning disabilities and/or mental health problems who have not yet gotten in trouble with the law.

In Lynn, a school district of nearly 14,000, with over 74% of its students from low-income families (the 5th highest rate in Massachusetts), Supervisors of attendance sometimes spend school-day mornings driving to the homes of truant students and having the permissive parent pull the child out of bed to be driven to school by the Supervisor of attendance.¹⁶⁸ This is a quick-fix to the problem, but the solution only lasts one day, and does not get at the root causes (often learning or mental health problems) of the truancy.

If the parents are an eager partner in getting the child to attend school, but the child needs counseling or mental health assistance, the Supervisor can try to get help for the child at

¹⁶⁴ Id.

¹⁶⁵ Id.

¹⁶⁶ Id.

¹⁶⁷ Clancey interview (10/16/06).

¹⁶⁸ His job: No child left Skipping school? Not if truant officers, principals, and counselors can help it, By Kay Lazar, *Boston Globe*, March 17, 2005, available at http://www.boston.com/news/local/articles/2005/03/17/his_job_no_child_left/

a state department of mental health's community service center.¹⁶⁹ However, when the student receives services outside of school, it is often difficult for the service provider, the parent, and the school to effectively communicate and coordinate regarding the student's progress and additional needs. The Haverhill Supervisor of attendance, whose district has approximately 7800 students, spends much of his time getting all the relevant parties for a single student's truancy (the parent, social service workers, mental health counselors, and probation officers) all sitting at the same table.¹⁷⁰ With so much inefficiency in the process for each student's case, it is not hard to see why truancy remains a serious problem.

3. School districts do not effectively communicate to parents that the parents have the option of requesting a special education assessment for their academically struggling student

School districts do not always make it easy for parents to find out about special education programs. For example, the Quincy Public School District web page does not have a direct link with special education information on its home page.¹⁷¹ The A-Z list of parent resources does not include an entry for special education.¹⁷² No single link exists which takes a visitor directly to the special education site. A parent who searches the Quincy Public Schools web page for "special education" produces a list of 70+ "hits."¹⁷³ A parent with enough computer-use experience to have gotten this far would still not know that his or her child had a right to a free assessment and to free special education services, unless he or she clicked on the "hit" entitled "Special Education Regulations" and read through the Quincy Public Schools Special Education power-point slides.¹⁷⁴ This is a cumbersome process for the

¹⁶⁹ Gilbert interview (10/11/06)

¹⁷⁰ Lazar, His job: No child left Skipping school?

¹⁷¹ <http://www.quincypublicschools.com/index.shtml>

¹⁷² http://www.quincypublicschools.com/parent/parent_a_to_z.shtml

¹⁷³ http://www.quincypublicschools.com/includes/search_pg.html

¹⁷⁴ http://www.quincypublicschools.com/_vti_bin/shtml.dll/includes/search_pg.html

computer savvy, and virtually unknowable for less experienced internet users. Low-income families often do not have internet access at home and low-income single parents often do not have jobs which involve sitting at a desk in front of a computer all day.¹⁷⁵ Many low-income single parents do not have the time to go to the public library and search the school district's web page for this information.¹⁷⁶

Many school districts provide their students' parents with an annual handbook containing school rules and policies.¹⁷⁷ Some of these handbooks include some information about special education, while others consist of little more than a list of rules, school telephone numbers, and the school calendar.¹⁷⁸ The 67-page handbook from the Boston Public School District includes one-third of a page on special education which informs parents that they have a right to an assessment of their child if they think their child is struggling in a regular classroom.¹⁷⁹ However, in the hustle of daily life in a low-income, single parent home, some of these parents will not have time to read the handbook thoroughly.¹⁸⁰

4. Schools districts do not have the time and resources necessary to quickly assess the reasons for a student's truancy

Middle and high school teachers especially (in contrast to elementary school teachers), frequently lack training in child development, or in how to recognize a student with a learning disability or mental health problems.¹⁸¹ Many school districts employ only one Supervisor.

¹⁷⁵ Rey Ramsey, CEO of One Economy, quoted in AT&T June 14, 2006 press release, available at <http://att.sbc.com/gen/press-room?pid=5097&cdvn=news&newsarticleid=22339>

¹⁷⁶ Cotton and Reed, *Parent Involvement in Education*.

¹⁷⁷ See, for example, *2006-2007 Guide to Boston Public Schools for Students and Families*, available at <http://www.boston.k12.ma.us/>.

¹⁷⁸ 12/2/06 interview with Julia Flaherty, history teacher at Whitman-Hanson High School. See also *2006-2007 Guide to Boston Public Schools for Students and Families*, available at <http://www.boston.k12.ma.us/>.

¹⁷⁹ See also *2006-2007 Guide to Boston Public Schools for Students and Families*, page 27, available at <http://www.boston.k12.ma.us/>.

¹⁸⁰ Cotton and Reed, *Parent Involvement in Education*.

¹⁸¹ BBA *Report on Truancy*, at p. 9 (citing 1989 Special Legislative Commission on Children in Need of Services "In Trouble, Children and Families in Need of Services"). See also 603 C.M.R. 7.03 and 7.07: Teacher Certification.

One person can make only so many phone calls and home visits each day. Boston has eight Supervisors, but they are stretched too thin. Boston schools sometimes wait days for a Supervisor to begin to address a truancy case that the school refers to the Supervisor.¹⁸² If the Supervisor is too busy to address one student's truancy for several days, the student's behavior become more ingrained as he falls further and further behind in class, and therefore becomes more and more apprehensive about going back to school.

When a special education evaluation and IEP are requested by a parent or teacher, the school district usually contracts with specialists trained to conduct the assessments. However, hiring a specialist is expensive, and some school districts do not have sufficient money in their budget for discretionary special education assessments.¹⁸³

5. School districts do not want to have to pay for special services that could be required as part of an Individual Education Plan

State law requires that all school districts conduct a special education assessment, develop an IEP, and provide special education services to their students, as needed.¹⁸⁴ These services can be very expensive, but because the Massachusetts DOE reimburses school districts for a significant portion of their special education expenditures,¹⁸⁵ the cost is not prohibitive or unmanageable for most school districts. School districts that can afford an assessment have an interest in avoiding not just the one-time cost of an assessment, but also the ongoing cost of providing the funding for the non-reimbursed portion of whatever services the assessment determines are necessary. Thus, most school districts conduct an assessment

¹⁸² Tuite interview (11/13/06).

¹⁸³ BBA Report on Truancy, at p. 9 (citing 1989 Special Legislative Commission on Children in Need of Services "In Trouble, Children and Families in Need of Services.")

¹⁸⁴ Smaller school districts often pool resources with each other to create a single special education program for student from all their districts. There is some state funding available, but districts who send children to these programs bear most of the cost. See James interview (11/6/06), referring to Chapter 766 of the Acts of 1972.

¹⁸⁵ Reimbursements are generally a certain percentage of total school district special education expenditures. See the Massachusetts Department of Education Special Education Finance web site at <http://finance1.doe.mass.edu/seducation/> for the latest reimbursement figures.

only when forced to by a parental request.¹⁸⁶ Instead of conducting an assessment for a truant student, the school district can scramble around trying to coordinate some general services for the student (such as occasional meetings with the school counselor or placing the student on a waiting list at the local department of mental health clinic), and watch as the student's truancy gets worse.¹⁸⁷ Eventually, the Supervisor of attendance will likely refer the student, whose special education needs have not been diagnosed or addressed, to CHINS.¹⁸⁸ If the CHINS probation officer meets with the student and determines that he or she could have benefited from special education services, because the CHINS court cannot order the school district to provide the special education services, the student will often be caught between dueling agencies (the school district, CHINS, and DSS) and not get the services he or she needs.¹⁸⁹

6. School district officials view truancy solely as a behavior problem without addressing the underlying causes

Some school districts view truancy solely as a discipline problem, and do not realize that learning disabilities or mental health problems are the underlying causes of many students' truancy.¹⁹⁰ Without recognizing the true causes of the student's truancy, effort to improve the student's attendance are unlikely to address the real need for services and are unlikely to succeed.¹⁹¹

C. Low-income single parents do not ensure that their children get educational and mental health services they need to succeed and attend school

1. Parents of truant students have ultimate responsibility for their children

¹⁸⁶ James interview (11/6/06).

¹⁸⁷ Id.

¹⁸⁸ Id.

¹⁸⁹ Id.

¹⁹⁰ Esposito, Educational & Mental Health Neglect Leads to Truancy, at p. 8, available at http://www.dyslexiacenter.org/files/tppreport_aug2003.pdf (Some students are told they could succeed if they "just tried" or that they are failing because they are "lazy"). See also Southwell, Truants on truancy, at p. 93.

¹⁹¹ Williams Interview (9/20/06). See also Southwell, Truants on truancy, at p. 93.

Parents have a fundamental liberty interest in care, custody, and management of their child.¹⁹² However, when a parent knows or should know that his or her child is engaging in wrongful behavior, that parent has a common law duty of parental discipline and must take reasonable measures to correct the child's behavior.¹⁹³ When a student skips school, that is an illegal behavior, and the parents must do all they can to ensure the child attends school.

If a parent is concerned with his or her child's progress in school, or thinks that the child may need special services to succeed in school, the parent can demand that the school district assemble a multi-disciplinary team to conduct a special assessment of the student's progress and needs.¹⁹⁴ If the assessment finds that the student has special education, physical health, or mental health needs, the school must develop and implement an IEP for the student.¹⁹⁵

2. Some parents do not fully understand the state school attendance law or the specific attendance policy of their child's school

In general, most parents know that their children should attend school. However, some parents think that as long as they approve of the absence, it is "excused" by the school.¹⁹⁶ Some parents do not realize that each school district has a specific list of types of absences that are excused and that all others are not excused.

School districts do not always successfully ensure that parents and students understand the legal requirement to send their children to school, and that students understand that the importance of an education. Most parents also do not know that they have the right to request

¹⁹² See Santosky v. Kramer, 455 US 745, 753 (1982). See also Troxel v. Granville, 530 U.S. 57, 65 (2000)

¹⁹³ Sabatinelli v. Butler, 363 Mass. 565, 569 (1973)

¹⁹⁴ See 603 C.M.R. 28.04(1)

¹⁹⁵ See 603 C.M.R. 28.00

¹⁹⁶ Clancey interview (9/20/06).

a special education assessment of their child, and that if their child is found to need special services, the school district must provide those services at no cost to the parent.

3. Low-income, single parents do not always know that their child is skipping school; some of those that know do not have the ability to determine why or to solve the problem

Low-income parents often have jobs with inflexible working hours, and may have to hold two or more jobs at a time.¹⁹⁷ Some of these single parents have to leave for work earlier than their children leave for school, leaving the parents unable to monitor school attendance on regular basis.¹⁹⁸ If the parent does not know that the child is skipping school, the parent cannot act to remedy the problem. Some parents are unaware that the child is skipping because the school does not directly contact them to inform them that their child is absent.¹⁹⁹ Most school districts have computer systems that call parents when students are absent from school.²⁰⁰ Low-income families are more likely to move and change phone numbers, so the records on file at the school are often wrong, leaving the school unable to contact the parent.²⁰¹ Where the telephone information is accurate, low-income single parents often have to work all day, so the student (and not the parent) will be home when the call arrives. The student can easily intercept the computerized calls from the school so that parents never find out that the student was absent.

¹⁹⁷ The Ballad of the Working Mother, by Lynn Olcott, *Newsweek*, 10/30/06, p. 22 (volume CXLVIII, No 18)

¹⁹⁸ BBA Report on Truancy, at p. 17.

¹⁹⁹ Sarkisian interview (11/3/06) (explaining that before instituting a rigorous attendance policy, some of her student's parents complained that they were unaware of their student's absence record until the quarterly report card arrived).

²⁰⁰ Id. (explaining that her school now has teachers and staff members make personal calls to parents each time their child is absent. The teachers and staff members insist on having a personal conversation with the parent during each call. Superintendent Sarkisian's school does not rely on a computer system to make the calls and does not leave messages on a parent's answering machine. Computerized phone calls and answering machine messages can be intercepted by the student and never make it to the parent).

²⁰¹ BBA Report on Truancy, at p. 17.

Some low-income parents who are aware that their child is skipping school have serious financial problems demanding their attention and making them unable to focus on ensuring that their child goes to school, evaluating how well their child is doing in school, and whether their child needs educational or counseling help to succeed in school.²⁰²

Low-income parents often do not know about their right to request a special education assessment, or how to monitor the school system to ensure that it provides all the services the student needs and to which he or she is entitled.²⁰³ Even if they knew how to navigate the system, many single parents (who bear all the money-earning and parenting responsibilities alone) may not have the time it takes.²⁰⁴ Low-income parents often lack health insurance coverage sufficient to address mental or physical health problems contributing to their child's truancy, and are therefore at the mercy of school district and state services.²⁰⁵

4. The rules that require school attendance have minimal adverse consequences for the low-income, single parents of students who do not attend

²⁰² Ken Seeley, president of the National Center for School Engagement in Denver, quoted in Brockton's Struggle, *Boston Globe*, at p. 1. See also Williams Interview (9/20/06). See also BBA Report on Truancy, at pp. 20 and 32.

²⁰³ Responsiveness of SCHIP to Children with Special Health Care Needs, by Sarah Rosenbaum, J.D., Center for Health Services Research and Policy, Department of Health Policy, George Washington University School of Public Health and Health Services (2003), available at <http://www.mchlibrary.info/MCHBfinalreports/docs/fr00165.doc> p. 27 ("...some parents are unaware of the many non-SCHIP funded resources available for their children with special needs, and therefore their children forego additional services.") p. 29 (Low-income parents of children with special health care needs often lack information about care coordination and available resources). See also Behavioral and mental health problems in low-income children with special health care needs (CSHCN), by Janie Canty-Mitchell, Joan K. Austin, Kim Jaffee, and others, 18(3) *Archives of Psychiatric Nursing* pp. 79-87, June 2004 (Finding that many low-income parents do not recognize mental health problems and service needs of children with special health care needs), available at <http://www.ahrq.gov/research/dec04/1204ra10.htm>.

²⁰⁴ Cotton and Reed, Parent Involvement in Education (Parent involvement in children's learning is positively related to achievement, but low-income parents often do not get involved with their child's school due to "lack of time or energy (due to long hours of heavy physical labor, for example), embarrassment or shyness about one's own educational level or linguistic abilities, lack of understanding or information about the structure of the school and accepted communication channels, perceived lack of welcome by teachers and administrators, and teachers and administrators' assumptions of parents' disinterest or inability to help with children's schooling.").

²⁰⁵ Overview of the Uninsured in the United States: An analysis of the 2005 Current Population Survey, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation (September 22, 2005), available at <http://aspe.hhs.gov/health/reports/05/uninsured-cps/>

State law requires that parents send their children, between the ages of 6 and 16 to school.²⁰⁶ Although the laws provide for punishment of parents who do not ensure that their children attend school, the school district rarely uses the three primary enforcement mechanisms provided for by law because they are ineffective.

The “failure to cause” statute, enacted in (and not updated since) 1852, allows school districts to fine parents at a maximum of \$20 per year²⁰⁷ for failing to ensure that their children attend school. School districts rarely attempt to collect the fine, because it costs more than \$20 in staff time just to prepare and file the necessary court action,²⁰⁸ and because a \$20 fine does not significantly deter truancy in most cases.

The Supervisor of attendance can impose a \$200 fine on any adult (including a parent) who willfully induces a 6-16 year old to “absent himself” from school.²⁰⁹ To collect the fine, a Supervisor must submit a sworn statement explaining the willfulness of the parent’s behavior.²¹⁰ Because the standard of proof is higher – requiring a showing of willfulness – this fine is more difficult to successfully collect.

The third enforcement possibility is CHINS, which focuses on helping the student, not on punishing the parent.²¹¹ The only “punishment” the CHINS court can (by statute) visit upon the parent of a truant student is to revoke that parent’s custody over the student. Because CHINS courts seldom use that power, the risk that a parent will lose custody of his/her child in a CHINS proceeding is small enough not to be a real deterrent.

²⁰⁶ See M.G.L. ch. 76, §1.

²⁰⁷ See M.G.L. ch. 76, §2. See also Avenoso, Weld says truancy should cost parents.

²⁰⁸ Avenoso, Weld says truancy should cost parents.

²⁰⁹ See M.G.L. ch. 76, §4.

²¹⁰ Superintendent’s Circular at p. 19.

²¹¹ See Appendix B to this report.

Because the laws requiring parents to send their children to school are not enforced, a single parent, who inevitably has sole responsibility for financing and running the household, has the opportunity to focus on things other than the causes of or solutions to his or her child's truancy.

5. **Some parents of a truant student with a learning disability or mental health problem do not want the child to receive a special education assessment**

Because a special education assessment can include a home visit by the evaluation team, a parent who knows that he or she can request an evaluation of his or her child might decline to do so for fear that the evaluation will reflect negatively on the parent. Because school districts cannot effectively enforce school attendance laws against the parents, parents can (without incurring any cost) protect their own pride and privacy by preventing the home visit and allowing their child to skip school.

6. **Some low-income single parents do not value education and believe that the stigma associated with obtaining treatment for learning disabilities and mental health problems is worse than living with the disability or problem itself**

Many low-income single parents are uneducated themselves.²¹² Some of these parents do not want to have their child assessed for special education needs because the parent believes that there is shame and stigma associated with learning disabilities or mental health problems.²¹³ The parents, themselves, lack successful role models who value education and have used an education to their advantage. Some parents of truant students do not value

²¹² Cotton and Reed, Parent Involvement in Education.

²¹³ Learning Disabilities and Family Dynamics, by Betty Osman, Ph.D, p.8 (Some parents fear the stigma, teasing, and rejection of their child by other children and/or their parents that often comes with a "learning disability" label). See also Art show sheds light on dyslexia's dark world, by Felicia Megdal, Roundup staff reporter, *Payson Roundup* (Rim Country's News and Information Source), 12/1/06, available at <http://www.paysonroundup.com/section/localnews/story/21796> ("There is a stigma because people think if you can't read and write you're illiterate. And if you're illiterate, you're stupid," said Kraemer, owner of Myra's Gallery in Pine. "And the shame. You can't even imagine the shame that goes along with it.")

education,²¹⁴ and therefore do not waste time or energy ensuring their children attend or get the help they need to succeed in school. One mother in Lynn told the Supervisors of attendance who came to enquire why her daughter was not in school that day that she let her daughter stay home because it was too cold outside and her daughter does not like to wear a coat.²¹⁵

The above section provided an analysis of the explanations for the behaviors of students with learning disabilities and/or mental health problems, their low-income, single parents, and their school districts. The analysis demonstrated that current anti-truancy efforts of school districts and parents do not address the real reasons why students with learning disabilities and/or mental health problems who live in low-income, single parent homes often skip school. This disconnect causes the anti-truancy efforts to fail, and sometimes motivates the student to skip more school. The next section proposes a solution tailored to the above explanations that mandates or motivates changes in behavior so that efforts of parents and school districts to fight truancy align with the real reasons these students skip school.

V. **Solution: Special Needs Assessments and Individual Truancy Prevention Plans**

This final section proposes a solution to the problem of truancy among students with undiagnosed special needs who live in low-income, single parent homes. The above behavior explanations demonstrate what incentives and requirements would and would not successfully change the behaviors of low-income single parents and school districts so that they connect more directly with the reasons their students with learning disabilities and/or mental health

²¹⁴ Garry, Lifetime of Problems, available at <http://www.ncjrs.gov/pdffiles/truncy.pdf>.

²¹⁵ Lazar, His job: No child left Skipping school?

problems skip school. The solution, “An Act to Prevent Truancy,” is the direct result of this analysis, and changes the behaviors of the parents and school districts so that they can in turn change the behaviors of these students, who will then attend school regularly. A solution will be effective only if it directly changes the behaviors that contribute to the truancy problem.

A. Alternative Solutions

Many programs to address truancy have been tried, and while some have succeeded in limited circumstances, none adequately or effectively addressed the behaviors and explanations identified in Parts III and IV of this report.

1. Incentives and Programs for Parents

One possible solution to the problem of truancy has been implemented by a kindergarten-through-8th grade school in Lynn, Massachusetts. Because many of the students’ parents have immigrated from abroad and do not speak English, the school offers parents free citizenship, and English-language, and high school equivalency classes at night.²¹⁶ The Rachel Carson School in Anchorage, Alaska implemented a similar program.²¹⁷ This type of program addresses the problem of truancy in several ways: it helps change a family’s perception of education as unimportant and engages parents in the school community so that they are more interested in ensuring that their children attend school.²¹⁸

This solution, while promising under some circumstances, will not address the specific explanations for truancy presented in this report. This type of solution will only be appropriate where a majority of parents whose children are chronically truant are immigrants and speak a language other than English. Furthermore, ensuring school attendance does not help if the

²¹⁶ Id.

²¹⁷ A Resource Guide for Virginia Schools, p. 24.

²¹⁸ Id. at 25.

student has learning or mental health problems that prevent him or her from being able to engage productively in the class material.

2. **Punishment for Parents**

The Massachusetts “failure to cause” statute could be amended to provide for a parental fine of much more than \$20. Oklahoma has such a statute defining truancy as ten consecutive days of unexcused absence, subjecting the parent of a truant child to \$100/day fine. If implemented in Massachusetts, a statute like this would give the Supervisor and the court where the Supervisor filed the action to collect the fine leverage over the parents. The court could use this leverage to coerce the parents into attending counseling meetings and parent education programs (instead of having to pay the fine).²¹⁹ This solution would be effective if students skip school because their parents actively prevent them from attending. However, this solution does not help address the learning and mental health problems faced by the student described in this report. Additionally, the size of the fine may exacerbate the resource stresses confronting low income facilities, thereby making the problem worse instead of better.

3. **Punishments for Students**

Everett High School students who miss any single class more than 25 times in a year must attend summer school.²²⁰ For more than 50 absences, the student must repeat the course during the next school year.²²¹ This potential solution may be effective at curbing truancy among students that do not suffer from any learning disabilities or mental health problems and skip school only because they want to sleep late or “hang out” with their friends. However, this potential solution would not address the underlying causes of the truancy in the students

²¹⁹ BBA Report on Truancy, at pp. iv and v.

²²⁰ Lazar, His job: No child left Skipping school?

²²¹ Id.

described in this report. A student who is forced to attend summer school, but whose special needs remain unaddressed, will likely skip many days of summer school for the same reasons he or she skipped class during the regular school year. The student is likely to continue to skip school until he or she turns 16 and is therefore eligible to drop out permanently.

4. Enhance Law Enforcement Aspects of Anti-Truancy Efforts

CHINS is a “toothless tiger”²²² in the majority of cases where revocation of parental custody is inappropriate. One proposed solution would give the CHINS court more authority to enforce school attendance orders and incarcerate (in a juvenile facility) those who fail to comply with the orders. Although this proposed solution may motivate truants without unmet special needs to attend school, it comes at a high price. Like the summer school program, above, this would not reduce truancy among students with unmet special education and mental health treatment needs, because it does not address the underlying causes of their truancy. If these students violated the court orders, they would become criminals.²²³ When the criminal justice system gets involved in a child’s life, it tends to induce, rather than prevent, future juvenile delinquency.²²⁴

Another law-enforcement-based proposal involves deputizing municipal police officers and MBTA police as Supervisors of attendance, with the authority to pick up truants on the streets and on MBTA property during school hours and return them to school. Because this proposed solution would not explore and resolve the underlying causes of the truancy, it would not solve the truancy problems of the students described in this report. Neither would it help address truancy among students so disabled by depression or anxiety that they stay at home when they skip school. For the reasons described above, if this solution were

²²² 11/13/06 interview with Steven Siciliano, Chief Probation Officer for Suffolk County Juvenile Court.

²²³ BBA Report on Truancy, at p. 12, citing a Supreme Judicial Court Committee 1994 Study on Juvenile Justice.

²²⁴ BBA Report on Truancy, at p. 36.

implemented, it should be made completely clear that truancy is not a criminal offense, and that police officers cannot use truancy apprehension as an excuse for criminal investigation or illegal searches and seizures of students.²²⁵

5. Creating Closer-knit Environments in Big Schools

Large high schools in two school districts north of Boston (Everett and Salem) are assigning each freshman student to a cluster – a subset of the freshman class.²²⁶ A student attends math, science, English, and social studies classes with the same group of other students – his cluster. The aim is to help students feel connected to a small community within the school and prevent them from skipping school because they feel lost in the crowd. The cluster helps create a more intimate and inviting setting for freshmen accustomed to “being the big fish in a much smaller pond.”²²⁷ This solution may address some social causes of truancy, but will not resolve the truancy problems experienced by students described in this report. But, because this is a virtually cost-free solution, it should be implemented at middle and high schools throughout the state. It is worth the minimal cost, even if it helps only one or two students per school.

6. Collaborative Community Programs

Middle Schools in Cambridge have addressed truancy through the School Tardiness and Attendance Review Team (START) since 1998.²²⁸ START focuses on quick, direct, contact with the parent; and referral of the student or parent to community-based resources within 30 days.²²⁹ The START program cut unexcused absences of its targeted students in half. When attendance of a student did not improve, Cambridge referred the case to DSS or

²²⁵ Id. at 38-39.

²²⁶ Lazar, His job: No child left Skipping school?

²²⁷ Id.

²²⁸ A Resource Guide for Virginia Schools, p. 38.

²²⁹ Id.

filed a CHINS petition application.²³⁰ The existing DOE grant program should fund projects like this in Massachusetts communities where it could be effective. Cambridge is a medium-sized school district, with a moderate (but not severe) truancy problem, located in a services-rich community, with less than half of its student population coming from low-income families.²³¹

Unfortunately, this solution will not be effective in school districts with severe truancy problems and significantly different demographics. This solution is similar to the patchwork of temporary services that many urban, low-income school districts currently provide for their truant students. Relying on a patchwork of community based services does not currently work in school districts with a higher population of low-income students and a bigger truancy problem.²³² Although START does not keep data on the students for which START did not improve attendance, it may be that many of these students had special education needs that START's services were unable to address. Under the START program, these students would be referred to CHINS and DSS. Neither agency has access to special education services. Therefore this solution would not address the needs of the students described in this report.

7. Wholesale Restructuring of CHINS Statute

Since 1987, there have been four major studies of the CHINS system.²³³ A 1994 study by the Supreme Judicial Court Commission on Juvenile Justice recommended total repeal of

²³⁰ *Id.*

²³¹ In the 2005-2006 school year Cambridge had 5803 students enrolled, 47.4% of whom were from low-income families. Cambridge's average attendance rate (2005-2006) was 93.2%. See Massachusetts DOE School District Indicators at <http://profiles.doe.mass.edu/>

²³² For example, the four school districts with the highest truancy rates (Springfield, Holyoke, Fall River, and Boston) all have larger student bodies than Cambridge (25,206, 6485, 10,969, and 57,349 students, respectively), all have higher poverty rates in their student bodies than Cambridge (76.2%, 80%, 58.3%, and 73.1%, respectively), and all have worse attendance rates than Cambridge (89.6%, 91%, 91.3% and 91.4%, respectively). See Massachusetts DOE School District Indicators at <http://profiles.doe.mass.edu/>

²³³ The Boston Foundation Community Safety Initiative Report on CHINS (October 2003), available at <http://crjustice.org/cji/TBF3CHINS.pdf>.

the CHINS statute and abolition of the CHINS system.²³⁴ The 1987 Report of the Governor's/Massachusetts Bar Association's Commission on the Unmet Legal Needs of Children recommended evaluating children on behalf of whom CHINS petitions applications are filed under the state's special education laws.²³⁵ The Final 1989 Report of the Special Legislative Commission on Children in Need of Services²³⁶ focused on availability of free social services.²³⁷ The most recent was the 1998 Boston Bar Association Task Force on Children In Need of Services.²³⁸ Several of these reports have concluded that CHINS needs contracted for referral spaces in various counseling, diagnostic (educational and mental health, parent education, remedial education, etc) programs.²³⁹ Alternatively, the legislature should fund the account from which counties can be reimbursed for paying for services for CHINS students.²⁴⁰

Smaller non-profit organizations and foundations have also held conferences and recommended CHINS changes. In 2005, the Children's League of Massachusetts recommended changing CHINS to FINS, for "Families In Need of Services," with a complete focus on the child's family in every case. None of the recommendations from any of these reports were implemented. The CHINS system involves frequent interaction between the juvenile courts, administrative agencies, and school district officials. Because each CHINS case is unique, the exact nature of the services provided by each entity, and the interactions between the entities cannot be easily characterized with general statements. Any call or

²³⁴ See Children's League of Massachusetts Report on CHINS (July 2005), available at http://www.mspsc.org/uploads/documents/live/CHINS_A_System_in_Need_of_Services.pdf and see also BBA Report on Truancy.

²³⁵ See Children's League on CHINS.

²³⁶ "In Trouble" Children and Families in Need of Services

²³⁷ See Children's League on CHINS

²³⁸ BBA Report on Truancy

²³⁹ BBA Report on Truancy, at pp. v and 10.

²⁴⁰ See Appendix B of this report for more information.

recommendation for whole-sale revision of the CHINS system should come from a committee represented by all these actors.²⁴¹ The careful study and design required is beyond the scope of this report.

B. Proposed Solution: Special Needs Assessments and Individual Truancy Prevention Plans

Anti-truancy action at the school level is of critical importance.²⁴² Effectively dealing with students at high-risk for truancy requires coordination between families and schools.²⁴³ For students with untreated learning disabilities and/or mental health problems, who live in low-income, single parent homes, the solution must treat their education and mental health counseling needs at school, while effectively engaging the parent in the solution.

When truants do return to school, to help prevent the regression into further truancy, tutors and other educational and counseling services should be made available immediately, so that students catch up on missed work and feel confident about their ability to succeed in school. By developing an ITPP for each student who has missed ten or more days of school in any school year quarter, school districts will ensure that each student's individual truancy triggers are addressed.

1. Summary of Proposed Solution

This bill directs the Massachusetts BOE to promulgate regulations that require school districts to conduct a special needs assessment and create an Individual Truancy Prevention Plan (ITPP) for any student who is absent without medical excuse ten or more days in any school quarter.

²⁴¹ The Boston Foundation Community Safety Initiative Report on CHINS (October 2003), available at <http://crjustice.org/cji/TBF3CHINS.pdf>.

²⁴² BBA Report on Truancy, at p. 16.

²⁴³ *Id.* at 9.

The assessment should include, at a minimum: 1) evaluation for potential learning disabilities, 2) assessment of mental health and need for talk-therapy, anxiety treatment, etc, 3) home visit with parent(s), and 4) such other items as BOE may in its wisdom require.

The ITPP should include, at a minimum: 1) regularly scheduled special education or mental health counseling services provided (where possible) at the child's school and during the regular school day, 2) short term tutoring sessions to help the student catch up on work missed during the truancy absences, and 3) a school-parent communication plan which requires that within 24 hours of a student's second consecutive unexcused absence, schools make reasonable efforts to contact the parent of a student to discuss the student's absence,²⁴⁴ and 4) such other items as BOE may in its wisdom require. The parent and a school district official (e.g. a principal or Supervisor of attendance) shall sign the ITPP signifying that they agree to its terms.

The regulations should require the school district to fund the special education, mental health counseling, and tutoring services where the district determines (in a manner established by BOE) that the parents cannot afford to contribute to the cost. The special needs assessment and resulting ITPP will be created and implemented in a manner similar to the special education assessment and IEP currently available under DOE regulations. The new needs assessment / ITPP regulations will be substantially similar to the education assessment / IEP regulations.

The main difference in assessments under the two programs will be the trigger.

Whereas school districts must conduct special education assessments and develop IEPs only when requested by a school official or parent, all students who have accumulated ten or more

²⁴⁴ A reasonable effort requires that phone calls or home visits be attempted in the evening if it is discovered that the parent is unreachable during the day.

unexcused absences in any quarter will receive a special needs assessment and an ITPP, without the need for a referral or request. The substantive difference between an ITPP and an IEP will be that the ITPP provides for tutoring and a parent-school contact plan even where the assessment team does not diagnose the student with any particular disability.

2. Justification for Proposed Solution

Students who suffer from learning disabilities and/or mental health problems frequently struggle in school. If they come from low-income, single parent homes, their parent is likely to be pressed for time and under financial stress.

The parent is unlikely to be able to monitor their child's comings and going from school, have adequate health insurance covering mental health services that their child needs, have time to spend several hours each night helping their child with homework, afford a tutor for the child, know about their right to request a school-district-funded special education assessment and IEP for their child, or have the time to fight with and monitor a school district bureaucracy to ensure that an assessment is completed and an appropriate IEP is implemented. As such, the student and his or her parent are at the mercy of the school district, and the student will get only those services the school district wants to provide.

Without help to address the learning disabilities and/or mental health problems, the student is likely to fall further and further behind in class, until he or she finds it worthless or emotionally painful to attend school. School district officials who work to fight truancy are by and large dedicated and hard-working.²⁴⁵ However, absent any specific requirements dictating how school systems must try to address truancy, few school districts have implemented a systematic way of discovering and treating the root causes of a student's truancy. The patchwork of services that many Supervisors of attendance cobble together for truant students

²⁴⁵ BBA Report on Truancy, at p. 35.

in need of assistance is often ineffective. The services are not coordinated with each other, often do not last for more than a few weeks, and often require a student to travel to a location other than the school. Some low-income, single parents do not have the time to transport the student to and from appointments.²⁴⁶

When school districts must follow a structure for assessing a truant's specific needs, and must focus their anti-truancy services on those needs, they will more efficiently allocate their anti-truancy resources to services that solve the specific problems experienced by individual students. Making a special needs assessment automatic for truant students missing ten or more days in a quarter will remove the school district's opportunity to avoid the costs associated with a special needs assessment, and help ensure that the student gets the services he or she needs.

The process of assessing the truant student, meeting with the student's parent, and developing an ITPP will force the school district to concentrate its anti-truancy resources on the specific reasons for each student's truancy, rather than rushing to assemble a patchwork of temporary and non-targeted services. After completing the process several times the school district will become more efficient at focusing on each student's individual truancy-triggers, and will develop a bank of resources and potential solutions for different types of truancy causing problems.

Making severe truancy an automatic trigger for a special needs assessment helps low-income single parents who do not have the time or resources available to figure out how, or that they even have the right, to demand a free assessment. By requiring school districts to seek parental input and interaction (in the assessment and the ITPP) in specific enumerated ways, this proposed solution frees low-income, single parents from the burden of diagnosing

²⁴⁶ Cotton and Reed, Parent Involvement in Education.

their child's problems, researching their special education rights, and navigating the school district bureaucracy. Most low-income, single parents want to be involved in their child's education and want their child to succeed,²⁴⁷ but do not have the time, experience, or financial ability to seek out solutions on their own.²⁴⁸

When invited to participate in a structured way, made to feel like a partner in the process, and given a specific contact person in the school district bureaucracy with whom they can communicate on an ongoing basis, most low-income, single parents will be productive participants in resolving the special education and mental health problems of their truant children.²⁴⁹ When the low-income, single parent participates in the creation of their child's ITPP, they are more likely to make the time in their hectic schedule to read it, understand it, and monitor its implementation. The school-parent communication plan will also give the parent a quick and efficient way of communicating with the school about his or her child's progress and getting any other information he or she needs (e.g. about the attendance policy or the definition of an excused absence).

The non-discretionary nature of the assessment will also ensure that school district officials who wish to see truancy as a discipline problem only, or parents who fear the embarrassment or stigma of a home visit or a diagnosis for their child, will not prevent the student from getting the help he or she needs. The requirement that the ITPP include tutoring

²⁴⁷ Low income parents and the public schools, By Bernice Lott, PhD, Vol. 57, No. 2 *Journal of Social Issues (JSI)*, October 2001

²⁴⁸ Cotton and Reed, Parent Involvement in Education.

²⁴⁹ Southwell, Truants on truancy, at p. 95. See also Lott, Low income parents and the public schools (explaining that the majority of low-income parents very much want to be involved in their child's school community, but feel teachers and school administrators demean them by assuming that they do not care about their child's education and are not competent to participate meaningfully in their child's educational growth).

to help students catch up on the class material missed during truancy absences will help prevent students from falling into a cycle of truancy.²⁵⁰

When students who have learning disabilities and/or mental health problems get the special tutoring and/or counseling that they need, they will begin to view the classroom as a place where success is possible.²⁵¹ When their single parents are actively engaged in their path to academic success, these students will feel supported in their scholastic efforts.²⁵² They will have renewed self confidence about their academic abilities.²⁵³ These students are less likely to misbehave in class out of frustration. The student will know that a parent and school officials are monitoring his or her school attendance, and will be unable to get away with skipping school. When the student has one-on-one relationships with special education teachers and/or counselors, he or she will have help preparing for standardized tests, and will no longer feel helpless and paralyzed by fear of failure. Confident students, who know that teachers, counselors, and other adults are ready to help them if they do struggle, are more likely to choose to go to school, even if their parents have to leave for work before they have to leave for school.

3. Cost / Benefit Analysis of Proposed Solution

Special needs assessments for all severely truant students, tutoring to catch-up on missed school work for all severely truant students, and counseling and special education services where the assessment determines it is warranted will increase school district operating costs. However, where the assessment determines that the student qualifies for a traditional IEP, the school district can be reimbursed by Massachusetts DOE for a portion of

²⁵⁰ Id. at 93.

²⁵¹ See, for example, Helping Traumatized Children Learn, at pp. 6-7, available at <http://www.massadvocates.org>

²⁵² Cotton and Reed, Parent Involvement in Education.

²⁵³ Id.

the money that it spends on special education services.²⁵⁴ The upfront investment in student's unmet needs will reap some short-term and some long-term savings for the school district and society as a whole.

Creating an ongoing counseling and special education plan tailored to the truant student is more likely to permanently resolve the truancy than a patchwork of services provided at different times for varying durations. Some of the money and effort expended on the assessment, creation of the IEP, and provision of the services will be saved in that the Supervisor of attendance and school will not have to revisit this student's truancy case in the future. Similarly, providing in-school tutoring to help students who have missed ten or more days of school will have an upfront cost.

However, school districts do already form partnerships with non-profit organizations²⁵⁵ and state agencies (such as the Department of Mental Health) to provide services to students. School districts will be able to rely (at least partially) on some of those same partnerships. But now the services will be provided in the school within the structure of a multi-disciplinary plan tailored to the needs of that student. Without these services, the student is likely to relapse into truancy. Every time a student relapses into truancy, the school district must spend time and money on calls and home visits, and further coordination between families, schools, superintendents, and state agencies.

²⁵⁴ See "Circuit Breaker" information on the Massachusetts DOE Special Education Finance web page at <http://finance1.doe.mass.edu/seducation/>

²⁵⁵ One Boston Middle School located in a low-income neighborhood has in-school counseling for students provided by non-profit organizations such as Big Brother Big Sister Association of American and Dorchester Community Health Clinic. The counselors can and do help fight truancy by assisting students with their own mental health problems and by forming long term mentoring relationships with students. The school has one full time and two part time social workers funded by the "Safe Schools, Healthy Students" non-profit who work with kids at school during the day and make home visits in the evenings (to talk to the parents of students who are truant). See Tuite interview (11/13/06).

Requiring personal contact between schools and parents when a student is absent may require a few hours of extra staff time each day. However, many school districts already make personal contact, and have not found this to be a budgetary burden.²⁵⁶ In the context of an ITPP school-parent communication plan, the school official assigned to make the call will usually be a school counselor or administrator, rather than a teacher with a full class schedule. The plan should specify where (e.g. work, home, cell phone) the parent is reachable and at what times of the day, so the school official can usually reach the parent on the first try and not have to waste time calling multiple times. Furthermore, the school official will have previously met with and gotten to know the student's parent (during the assessment and ITPP development process). There will be a level of familiarity (and hopefully trust) between the parent and school official, dispensing with the need for long introductions and explanations and allowing the call to be completed in an efficient, but effective manner.

Reduction in truancy will reduce juvenile delinquency such that fewer people become victims of crime.²⁵⁷ Taxpayers save money when the system does not have to spend money investigating the crime that did not happen and punishing the criminals that do not exist. Students who attend school regularly receive better educations and are better able to support themselves productively as adults.²⁵⁸ Thus taxpayers will save money in the future, not

²⁵⁶ Sarkisian interview (11/3/06).

²⁵⁷ Officials in Van Nuys, California, St. Paul, Minnesota, and Roswell, New Mexico all reported significant drops in daytime crime rates (for crimes such as vandalism, shoplifting, and purse-snatching) when effective anti-truancy programs were implemented. See Truancy: First Step to a Lifetime of Problems, by Eileen M. Garry, *Juvenile Justice Bulletin*, page 2, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice (October 1996).

²⁵⁸ High-Stakes Testing, at p. 27.

supporting the truants who would have eventually become drop-outs and would have eventually ended up on welfare.²⁵⁹

4. Continuing Evaluation of Proposed Solution's Effectiveness and Integrity of Implementation

Subsection (d)(v)(a) of Section 21 (which this bill proposes to add to Chapter 76 of the General Laws) requires the BOE to promulgate regulations to ensure that its enforcement arm (the DOE) can enforce the regulation and track school district compliance. Subsection (d)(v)(b) mandates that the BOE regulations include school district reporting to DOE such that DOE can determine whether ITPPs are an effective way of reducing and preventing truancy. Subsection (e) of the proposed Section 21 requires DOE to (a) report to the General Court five years after the effective date of the law on its effectiveness at fighting truancy, and (b) make recommendations for law amendments that would improve the effectiveness of anti-truancy measures.

The implementation of the ITPPs is likely to involve payment of private services providers with public funds, and there is always the possibility that a service provider will attempt to defraud a school district. Massachusetts has already-established procedures for ensuring against fraud and waste of public funds. The Massachusetts Inspector General is appointed to a five year term,²⁶⁰ and acts to detect and prevent fraud, waste and abuse in the expenditure of state and local public funds.²⁶¹ Furthermore, as one of six statewide elected

²⁵⁹ See U.S. Bureau of the Census, 1992 (More than one-third of all high school dropouts who were employed full-time in 1990 earned less than \$12,195 per year – the official poverty rate for a family of four). See also Rumberger, Why Students Drop Out of School and What Can be Done, at pp. 2-3.

²⁶⁰ The terms of the Inspector General and the Governor are staggered such that no Governor can enjoy an Inspector General of his own appointment for his entire administration. Furthermore, the Inspector General must “be selected without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation or criminal justice administration.” See M.G.L. ch. 12A, Section 2.

²⁶¹ See M.G.L. ch. 12A, Section 7. The full text of the section is:

offices in the Commonwealth, the State Auditor “provides independent and objective evaluations of the Commonwealth's financial and operational activities in accordance with generally accepted government auditing standards... [and] works to make government more accountable and effective by reducing waste and eliminating fraud...”²⁶²

VI. Conclusion

The proposed solution requires school districts to conduct special need assessments and implement Individual Truancy Prevention Plans, similar to existing special education evaluations and Individual Education Plans, when a student skips ten or more days of school per quarter. Because Individual Truancy Prevention Plans focus on the causes of each individual student's truancy, implementation of the Plans will change the behaviors of the parents and school district officials who already work to fight truancy. In the course of implementing the Individual Truancy Prevention Plans, the parents and school district officials will be forced to focus their efforts on anti-truancy measure that will directly address and resolve each student's truancy problems.

When the student gets adequate help managing his or her learning disabilities and/or mental health problems and mastering course material, he or she will feel more confident about prospects for success in school. Confident students, who know that parents, teachers, counselors, and other adults are ready to help them if they do struggle, are more likely to choose to go to school.

The office of inspector general shall act to prevent and detect fraud, waste and abuse in the expenditure of public funds, whether state, federal, or local, or relating to programs and operations involving the procurement of any supplies, services, or construction, by agencies, bureaus, divisions, sections, departments, offices, commissions, institutions and activities of the commonwealth, including those districts, authorities, instrumentalities or political subdivisions created by the general court and including the cities and towns.

²⁶² See <http://www.mass.gov/sao/>

Text of Proposed Bill

AN ACT TO PREVENT TRUANCY

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 76 of the General Laws is hereby amended by inserting, after Section 20, the following:

Section 21: Truancy Prevention

Within 15 months of the effective date, the Board of Education shall promulgate regulations requiring school districts to conduct a special needs assessment and create an Individual Truancy Prevention Plan for each student who is between the ages of 6 and 16 years old and who is absent from school without medical excuse ten (10) or more days in any quarter of a school year.

(a) The assessment shall be conducted by qualified professionals and shall include, at a minimum:

- (i) Evaluation for learning disabilities,
- (ii) Assessment of mental health and need for talk-therapy, anxiety management, trauma counseling, or other mental health illness treatment,
- (iii) A home visit and meeting with the student's parent(s) or legal guardian(s), and
- (iv) Structured solicitation of input from the student's parent(s) or legal guardian(s).

The Board of Education may, in its regulations, require assessments to include additional items which it determines to be necessary.

(b) The Individual Truancy Prevention Plan shall include, at a minimum:

- (i) If the assessment demonstrates that the student has a learning disability: regularly scheduled special education sessions provided by a qualified professional,
- (ii) If the assessment demonstrates that the student could benefit from mental health treatment and/or counseling: regularly scheduled treatment / counseling sessions provided by a qualified professional,
- (iii) Tutoring sessions to help the student catch up on work missed during the truancy absences, and
- (iv) A school-parent/guardian communication plan which requires that within 24 hours of the student's second consecutive unexcused absence, the student's school make reasonable efforts to contact the parent/guardian of the student to discuss the student's absence. A reasonable effort requires that the school district attempt phone calls or home visits in the evening if the parent(s) or guardian(s) cannot be reached during the day.

Where possible, the services described in this subsection shall be provided at the student's school and during the regular school day. The student's parent(s) or legal guardian(s) and a school district official (e.g. a principal or Supervisor of attendance) shall sign the Individual

Truancy Prevention Plan signifying that they agree to its terms. The Board of Education may, in its regulations, require Individual Truancy Prevention Plans to include additional items which it determines to be necessary.

(c) The Board's regulations shall require the school district to fund the assessment, special education, mental health counseling, and tutoring services where it is determined (in a manner established by the Board in its regulations) that the parents are unable to afford to contribute to the cost.

(d) The Board shall, in promulgating these regulations, include other provisions to ensure smooth and efficient implementation of this law and progress towards the goal of reducing student truancy. Such provisions shall include, but not necessarily be limited to:

- (i) Maximum number of days between student's tenth absence without medical excuse and the completion of the assessment of the student,
- (ii) Maximum number of days between the completion of the assessment and the development of the Individual Truancy Prevention Plan,
- (iii) Schedule and procedures for amending the Individual Truancy Prevention Plan or terminating its implementation,
- (iv) Required qualifications for professionals conducting the assessments and providing services to the student, and
- (v) Required school district reporting to the Department of Education enabling the Department to
 - a. Ensure that school districts are in compliance with the regulation,
 - b. Determine the effectiveness of the Individual Truancy Prevention Plans in reducing truancy

(e) Five years after the effective date of this law, the Department of Education shall submit a report to the Chairpersons of the Education Committees of the Senate and House of Representatives in the General Court. The report shall include

- (i) An overall evaluation of the regulation's effectiveness in reducing truancy, especially among students from low-income homes, and
- (ii) Any recommendations which would improve the law and help further reduce truancy.

(f) Disputes between parent(s) / guardian(s) and the school district regarding the assessment, the Individual Truancy Prevention Plan, implementation thereof, or other matter arising under this Section shall be resolved in accordance with the laws and procedures governing dispute resolution of special needs evaluations and Individual Education Plans under Chapter 71B ("Special Education") of the General Laws, and 603 C.M.R. 28.00.

APPENDIX A: Chapter 76 (“SCHOOL ATTENDANCE”) of the General Laws, Section Titles and Selected Text

Section 1. School attendance; requirements and exceptions.

Section 1A. Pupil absence notification programs.

Section 2. Duties of parents; penalty.

Every person in control of a child described in section one shall cause him to attend school as therein required, and, if he fails so to do for seven day sessions or fourteen half day sessions within any period of six months, he shall, on complaint by a Supervisor of attendance, be punished by a fine of not more than twenty dollars. No physical or mental condition capable of correction, or rendering the child a fit subject for special instruction at public charge in institutions other than public day schools, shall avail as a defence [sic] unless it appears that the defendant has employed all reasonable measures for the correction of the condition and the suitable instruction of the child. The Boston juvenile court shall have jurisdiction within the territorial limits described in section fifty-seven of chapter two hundred and eighteen of complaints hereunder. The Worcester juvenile court shall have jurisdiction, concurrent with the central district court of Worcester, of complaints hereunder. The Springfield juvenile court shall have jurisdiction, concurrent with the district court of Springfield, of complaints hereunder. The Bristol county juvenile court shall have jurisdiction, concurrent with all of the district courts of Bristol county, of complaints hereunder, and the presiding judge of said court shall establish hearing dates on a circuit basis to be held in such respective courts. Complaints hereunder brought in other district courts shall be heard in the juvenile sessions thereof.

Section 2A. Attendance of deaf children; penalty.

Section 3. Attendance of illiterate minors; penalties.

Section 4. Inducing absences; penalty.

Whoever induces or attempts to induce a minor to absent himself unlawfully from school, or unlawfully employs him or harbors a minor who, while school is in session, is absent unlawfully therefrom, shall be punished by a fine of not more than two hundred dollars.

Section 5. Place of attendance; discrimination.

Section 6. Payment of tuition for non-resident children.

Section 7. Tuition; children under control of department of social services; foster care; reimbursement.

- Section 8. Repealed, 1977, 363A, Sec. 56.
- Section 9. High school tuition of children under control of department of public welfare, etc.
- Section 10. Settlements of accounts between towns and department of public welfare, etc.
- Section 11. Tuition of children in institutions.
- Section 12. Attendance outside place of residence.
- Section 12A. Plan for attendance in public school to eliminate racial imbalance; adoption; financial and technical assistance.
- Section 12B. Definitions; attendance of school other than in city or town of residence of child; reports; tuition; parent information system; transportation reimbursement program; funding.
- Section 12C. School Choice Tuition Trust Fund.
- Section 13. Transfer cards.
- Section 14. Island children; transportation.
- Section 15. Vaccination and immunization.
- Section 15A. Sick cell anemia; blood tests.
- Section 15B. Screening programs, testing, treatment, etc. for sickle cell anemia and related genetically-linked diseases; rules and regulations; records and information, disclosure restricted.
- Section 15C. Immunization of college health science students.
- Section 16. Children excluded from school; remedies.
- Section 17. Hearing prerequisite to exclusion.
- Section 18. Notice to parent or guardian and meeting with school committee prerequisite to student permanently leaving school; annual report; application of section.
- Section 19. Supervisors of attendance; employment.

Every school committee shall appoint, make regulations governing and fix the compensation of one or more Supervisors of attendance, who may be either male or female, and who shall meet such standards of qualifications for such work as shall be

established by the department of education; provided, that such Supervisors shall have attained the age of twenty-one years. The committees of two or more towns may employ the same Supervisors of attendance.

Section 20. Powers and duties of Supervisors of attendance.

Supervisors of attendance shall inquire into all cases arising under sections two and eight of chapter seventy-two, sections one, two, four to eleven, inclusive, and fifteen of chapter seventy-six, and sections ninety, ninety-two, ninety-three, and ninety-five of chapter one hundred and forty-nine, and may apply for petitions under the provisions of section thirty-nine E of chapter one hundred and nineteen. They shall, if the court so orders, have oversight of children placed on probation; of minors licensed by the school committee under section nineteen of chapter one hundred and one; and of children admitted to or attending shows or entertainments in violation of section one hundred and ninety-seven of chapter one hundred and forty. They may apprehend and take to school without a warrant any truant or absentee found wandering in the streets or public places.

APPENDIX B: Child In Need of Services (CHINS) Court System

In 1973, the legislature amended criminal law statutes to define truancy as a status offense. A status offense is a non-criminal behavior that is only illegal because of the age of the actor. The action that constitutes a status offense would not be illegal if done by an adult.

Massachusetts General Laws ch. 119, §21 creates a juvenile non-criminal court system with a goal of providing services to status offenders such that they improve their behavior and do not eventually become juvenile delinquents or adult criminals. Section 21 defines a truant "child in need of services" (CHINS) as "a child between the ages of six and sixteen who persistently and wil[l]fully fails to attend school."²⁶³

When a Supervisor of attendance files a CHINS application, a probation officer is assigned to the student.²⁶⁴ Before the hearing date, the probation officer meets with the child and his or her parents and tries to work out a "contract" whereby the student promises in writing to meet certain goals (such as attend school regularly).²⁶⁵

Quite often, the child and the family need social services.²⁶⁶ If the parent does not have private insurance, the probation officer will instruct the parent to go to a Department of Social Services (DSS) office and request voluntary services.²⁶⁷ In recent years, DSS has improved the level of services it is able to provide to children in the pre-hearing (informal) stage of CHINS.²⁶⁸ However, children often wait three to six months to get the services they need.²⁶⁹

²⁶³ There is no set number of days of school that a child must miss before it is considered "persistent." However, because the statute requires that the persistence be proven beyond a reasonable doubt, students can avoid having their truancy qualifying as persistent by attending school consistently for a few weeks until the counselors and Supervisors of attendance think that the student's problem is "solved." Then when attention is off the student, he or she can start skipping again until it starts to attract attention. Then the student will start attending school again, and repeat the cycle. (See James interview (11/6/06)).

²⁶⁴ See M.G.L. ch. 119, §39E. The statute provides that the assistance period lasts six-months from the date the petition application was first filed, with the possibility of one six-month extension. By statute, the officer can refer child to any public or private organization or person for medical, educational, occupational, social services. In 1986, the Boston Juvenile Court had 200 fully funded spots in various programs aimed at eliminating truant behavior for CHINS court referrals. There are no contracted for slots now. DSS is the only service provider. See BBA Report on Truancy, at p. 34.

²⁶⁵ James interview (11/6/06).

²⁶⁶ Sometimes the student needs educational (as well as social) services and the probation officer believes that the school district should have provided the educational services before referring the child to CHINS. In this case, the court may, at the probation officer's recommendation, appoint a guardian ad litem to lobby the school district on behalf of the child. However, neither the guardian ad litem, the probation officer, nor the court can order the school district to do anything. (James interview (11/6/06))

²⁶⁷ Many parents have prior negative experiences with DSS and refuse to go. The probation officer cannot make the parent seek DSS services for the child at this point.

²⁶⁸ James interview (11/6/06).

²⁶⁹ See The Boston Foundation Community Safety Initiative Report on CHINS, p. 4 (October 2003), available at <http://crjustice.org/cji/TBF3CHINS.pdf>.

If the six-month informal CHINS period elapses and the student's attendance has not improved, the CHINS judge is supposed to set a trial date to hear the recommendations of the probation officer and determine if the student is a child in need of services.²⁷⁰

If the child stipulates to being a CHINS,²⁷¹ or if the child is adjudicated to be a CHINS, the only authority that the CHINS statute gives the court is the power to remove the child from his current custodial arrangement, if the court deems that to be in the best interest of the child. The Massachusetts Supreme Judicial Court has held that direct orders by a CHINS court for a student to attend school are not valid (i.e. are not binding on the student and cannot be enforced) under CHINS statute, unless they are imposed as a condition of the child's custody.²⁷²

The CHINS statute does not recognize truancy as a family problem, or provide a way for dealing with it as such.²⁷³ The CHINS statute gives the court no jurisdiction whatsoever over parents.²⁷⁴ In other words, there are only two types of valid orders a CHINS court can issue: 1) give legal custody of the child to DSS or an adult other than his parent; or 2) condition the parent's continued legal custody of the student upon the student's attendance at school or participation in certain social services.²⁷⁵

DSS is the sole public provider of services for CHINS students. DSS provides mental health and counseling services, but not special education or tutoring services. By the time a student's truancy is severe enough that he or she is determined to be a child in need of services, the student has likely fallen far behind his or her peers in academic achievements.

Revoking parental custody of a child is an extreme measure, and is intended to be temporary.²⁷⁶ During the 2003-2004 school year, a single Lynn Supervisor of Attendance filed approximately 250 CHINS petition applications.²⁷⁷ Only about 20% of those (approximately 50) resulted in an adjudication or stipulation on the petition, and less than ten students were removed from their home.²⁷⁸ In calendar year 2005, only 11% of children with a signed CHINS petition were placed in DSS custody, and not all of them were actually removed from their home.²⁷⁹

²⁷⁰ See M.G.L. ch. 119, §39E. The hearing can be a bench trial, or a jury of six.

²⁷¹ Children often stipulate to being CHINS if the facts point in that direction, because they do not want to go through a trial. (See James interview (11/6/06)).

²⁷² *In Matter of Vincent*, 408 Mass 527 (1990)

²⁷³ BBA *Report on Truancy*, at p. 34.

²⁷⁴ See M.G.L. ch. 119, §§21 and 39E-39J

²⁷⁵ See M.G.L. ch. 119, §39G. Orders issued under this section last for six-months with the possibility of a single six-month extension. Orders issued pursuant to a truancy CHINS case do not last beyond the child's 16th birthday.

²⁷⁶ See 110 CMR 4.64 (1996): DSS may make its own clinical judgment as to the appropriateness of services to any child not in its custody. Even in case of out-of-home placement (i.e. where the child is in DSS custody), DSS determines type and length of placement.

²⁷⁷ Lazar, *His job: No child left Skipping school?*

²⁷⁸ *Id.*

²⁷⁹ 11/13/06 interview with Steven Siciliano, Chief Probation Officer for Suffolk County Juvenile Court. No statistics are kept on how many CHINS applications are for truancy (vs other status offenses such as stubbornness or running away from home). However, Mr. Sciliano estimates that most are for truancy. The

There is no data being continuously compiled on the types of problems presented in CHINS cases, or the CHINS success rate.²⁸⁰ There is no mechanism within the CHINS system by which anyone tries to determine the types of services needed (in general, not just for a specific child) and develop those services.²⁸¹

Supervisors of attendance, parents, and law enforcement have filed over 9000 CHINS *applications* (not all for truancy) that are currently pending.²⁸² Probation officers and the CHINS courts are currently processing 6000 pending CHINS *petitions*.²⁸³ A Boston Bar Association (BBA) study of Boston Public Schools in the 1996-1997 school year found that CHINS truants on average showed neither improved nor worsened school attendance as a result of the CHINS application filed on their behalf.²⁸⁴ A Boston middle school principal says that when his school and the Supervisor have exhausted their own resources on a certain student's truancy case, they make a CHINS referral because "it is the thing to do," but added that it usually does not result in the student's improved attendance.²⁸⁵

The CHINS system does not work to resolve truancy problems because by the time a student is involved in the CHINS system, he or she has usually missed months of school. Although the mental health counseling available through DSS could help resolve some of the student's problems, the lack of special education services and tutoring to help the student catch up will leave the student frustrated and depressed about school attendance and failure. Furthermore, because students often have to wait months after being referred to DSS to actually start receiving counseling services, the amount of school missed, and associated frustration and mental health damage is exacerbated.

Probation Officers consider a petition to be "signed" when the case goes before a judge for any reason, even if just to extend the informal period of probation officer assistance. While a signed petition is a pre-requisite to a child being declared a "child in need of services," not all children with signed petitions are eventually so declared. No statistics are kept on how many petitions result in adjudication or stipulation that the child is a "child in need of services." When the CHINS court places a child in DSS custody, DSS has the discretion to remove the child from his or her home, or to permit the child to stay in the home (subject to increased DSS monitoring). Mr. Sciliano estimates that 60% - 70% of children placed in DSS custody via the CHINS system were actually removed from their homes.

²⁸⁰ BBA Report on Truancy, at p. 21. See also 11/13/06 interview with Steven Siciliano, Chief Probation Officer for Suffolk County Juvenile Court.

²⁸¹ BBA Report on Truancy, at p. 11 (citing Supreme Judicial Court Commission on Juvenile Justice Final Report, June 1994).

²⁸² 9/20/06 interview with Mary Anne Padien, Chief of Staff, and Erin Bradely, staff for Senator Karen Spilka.

²⁸³ Id. Note also that a CHINS application is converted to a petition after the initial hearing in front of the CHINS judge.

²⁸⁴ BBA Report on Truancy, at pp. 25-26.

²⁸⁵ Tuite interview (11/13/06).