

An Act Regarding Children and Families Requiring Assistance

Background

In 1973, Massachusetts replaced statutes criminalizing youth behaviors that include running away, truancy, disobedience to parents, and violating school rules with a status offender system. The fundamental principle behind the statutory shift was the belief that these behaviors were not offenses against society, but rather behaviors contrary to the youth's own self-interest. The new status offender system was intended to facilitate a redirection of state efforts from punishing troubled children to diverting them from the courts and providing them with special services. In Massachusetts, the entrance into this system is by the filing of a court petition and immediate referral of the child to probation and juvenile justice, often as the only way to access much-needed social services.

The child in need of services system (CHINS), since its inception, has been studied by multiple commissions to evaluate its effectiveness for the youth involved. Each study commission has returned recommendations to improve the system varying from repealing the system to giving the courts greater control over the youth involved. In 2005 Senator Karen E. Spilka, Chair of the Joint Committee on Children and Families, called together a task force to explore the Commonwealth's and other states' practices and laws around the CHINS system. More than 100 stakeholders¹ have participated in this task force effort. The Senator also convened monthly steering committee meetings, as well as various subcommittees².

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

General Overview

This legislation proposes the creation of a statewide community-based crisis intervention system and the streamlining of the juvenile court procedure for status offender cases. A community organization provides an immediate response to families and children in crisis and connects the family to additional services in the community, including, counseling, parent training, and mental health services. The services would be provided along a continuum of intensity, depending on the nature of a family's particular circumstances, with the twin aims of keeping the child out of the juvenile justice system and strengthening the family while ensuring the healthy development of the child. By diverting those children and families who can be helped with community-based services, the juvenile justice system would be reserved for families facing chronic or complicated challenges as a last resort; it would no longer serve as the first option to access social services.

¹ Participating Agencies and Organizations include: DSS; DYS; DMH; DOE; Juvenile Court; Probation; municipal police representatives, Massachusetts Superintendents Association, MSPCC, The Children's league, CPCS, lawyers representing children, Federation for Children with Special Needs, Parents Advocacy League, MA Alliance for Juvenile Court Clinics

² Subcommittees include: Data Collection; Front End; Court Process; Research - MA Best Practices, and Research - Other States' Laws and Best Practices

Children and Families Requiring Assistance Process

➤ Community-Based Crisis Intervention System

As proposed in the draft legislation, these community-based centers will be overseen by the Executive Office of Health and Human Services (EOHHS). EOHHS will design the model to deliver the services, basing centers in current agencies or non-profit organizations, adopting a uniform standard intake process, creating a uniform data collection system and ensuring that state agencies collaborate together to best serve the needs of the child and family. The services provided will focus on diverting children from the juvenile justice system; they are received *prior* to any legal processes or intervention. Furthermore, the services will focus on the entire family, not just the child. Service model will include:

- Response to children and families 24 hours a day, 7 days a week
- Voluntary participation
- Short term crisis placement and up to 21 day respite placement where needed
- Evaluation of family needs by a case manager; services provided on referral basis through community resources
- To facilitate collaboration, each community-based center will have an advisory board comprised of the school, police, probation, community organizations and parents.

➤ Diversion from the Juvenile Justice System

In the spirit of diverting children from the juvenile justice system, most children and families will make use of the community based service system before a request for assistance is filed with the juvenile court.

- Where there is a perceived risk of harm from delaying access to the court, or the problem is too complex for the community service system to address, the family will be directed in the first instance to the court.
- After a family has completed a service plan with the community center, if the difficulties for which the family sought help are not resolved, the family, school or a police officer may seek assistance for the child in the juvenile court.
- If a family or child comes to court for assistance, they will be first referred to community based crisis intervention services (unless doing so would put the child at risk of harm)

➤ Juvenile Justice System for Status Offenders

The draft legislation streamlines the procedural requirements. The major changes include:

- After a request for assistance (formerly a CHINS application) is filed a probation officer will conduct a preliminary inquiry and will offer assistance to the family which may include referral to community based services
- Within 90 days after the request was filed, the juvenile court will hold a fact-finding hearing at which the judge will determine if there is probable cause that the child and family requires assistance and if an adjudication hearing should take place.
- The petitioner (parent, school or police officer) may, at any point prior to the adjudication hearing, withdraw the request for assistance
- At an adjudication hearing the petitioner carries the burden of proof and must prove allegations by a preponderance of the evidence (formerly beyond a reasonable doubt).
- If a child is found to be requiring assistance, the judge will convene a meeting of the probation officer, the case manager, the petitioner, the child's school, and the parent or guardian to determine the appropriate placement and services for the child
- Before a child is removed from his home the court will hold a hearing at which parents may be heard and legal counsel will be appointed to indigent parents.
- Dispositions are reviewed every three months and limited to one year.