

An Act Regarding Children and Families Requiring Assistance

Lead Sponsors: Senator Spilka, Representative Donato

What this Bill Does

Creates a Front-End

This bill creates a community-based crisis intervention services program whereby children and families receive services prior to any legal processes or intervention. The Secretary of the Executive Office of Health and Human Services is responsible for creating a network of services programs, including designing models to deliver the services, developing standards, monitoring the programs, adopting a standard intake process, and creating a data collection system. Both the child and the parents must consent to the services and upon consent a case manager will implement a service plan for eligible children and families. The children and families will receive appropriate community-based services at least 90 days before the legal process is triggered to determine whether a child “requires assistance.”

Focuses on the Family

Unlike the existing system, which provides services only to children, this bill provides that eligible children and their families receive services included as part of the front-end system described above.

Diverts Children from the Juvenile Justice System

This bill focuses on providing services to the children and their families in an effort to divert children from the juvenile justice system. At the conclusion of the initial 90-day period of services, the case manager will meet with the child and family to determine whether services should be extended for a second 90-day period. After the case team determines that the child and family have received an appropriate level and duration of services (or upon an earlier request by a parent or a member of the case team), the case manager will hold a disposition meeting to determine whether to discharge the case because: 1) the family and child are unlikely to benefit from additional community-based services; 2) the family failed to cooperate with the service plan; or 3) the crisis has been resolved.

Ensures Due Process

The bill includes various safeguards to ensure that the rights of both the child and the parents are protected. Specifically, the bill requires that counsel be appointed for the child three business days prior to any scheduled hearing. In addition, if the court orders that the child be placed in the custody of DSS (because it is determined by probable cause that there is a likelihood of serious harm to the child or that the child is not likely to appear at the fact-finding or adjudication hearing), counsel must be provided to the child’s parents. Finally, where one parent initiates the proceeding, the court will provide notice to the parent or guardian who has not signed the request for assistance.

Amends the Procedural Requirements to Ensure Due Process & Promote Diversion

This bill amends the process for filing and adjudicating a request for assistance. As part of the request for assistance, the petitioner must attach the notice of termination of community-based crisis intervention services (or, in cases where a child and family are not eligible for services, a

notice of ineligibility for the services). If the request is not accompanied by a notice, the person or agency seeking to file the request for assistance will be referred to the appropriate community-based crisis intervention services program. Within 90 days from the date that the request for assistance is filed, the clerk must schedule a fact-finding hearing. Additionally, the chief probation officer (or his designee) must conduct a preliminary inquiry to determine whether the best interests of the child and family require the provision of crisis intervention services. Based on that determination, the probation officer may refer the family and child to various community-based crisis intervention services for a period of up to 90 days from the date the request was filed. Upon the conclusion of the 90-day period, the request for assistance may be dismissed or the fact-finding hearing will commence. It should be noted that the petitioner may withdraw the request for assistance at any point prior to an adjudication hearing.

When a fact-finding hearing is convened, the court must consider evidence from the petitioner, case manager, and probation officer, as well as review any notice of termination of community-based crisis intervention services. To the extent that the child and family consents, the court may also consider any written reports created by the community-based crisis intervention services. Based on the information presented, the court will do one of the following: 1) dismiss the request for assistance; 2) adjourn the hearing and, upon consent by the child and family, refer the child and family to a probation officer and order participation in additional services, or 3) determine that the child requires assistance and schedule an adjudication hearing. At the fact-finding hearing, the petitioner bears the burden of presenting evidence to prove by a preponderance of the evidence that the child requires assistance.

If a child is adjudicated as requiring assistance, the court must convene a meeting of the probation officer, case manager, petitioner, the child's school, and the parent or legal guardian to present information and advise the court of the appropriate placement for the child. In light of the findings presented and the welfare of the child, the court may order that the child: 1) remain with his parents subject to any court imposed conditions or limitations; 2) be placed in the care of a relative or other person designated by the court, a private charitable or childcare agency authorized by law to care for children, or a private charitable or childcare agency otherwise qualified to care for the child; or 3) be placed with DSS. Before a child may be committed to the care of DSS, the court must hold a hearing to determine by clear and convincing evidence whether there is a substantial likelihood of serious harm. A child found to require assistance will not be committed to any county training school or any institution designated or operated for juvenile delinquents. Proceedings under the bill will not be deemed criminal in nature and will not be entered into the CORI system.

Disposition orders will be effective for not more than 90 days; however, after a hearing, the court may extend the order for up to three additional 90-day periods, i.e., the disposition order may continue for up to almost one year.

Requires Accountability

This bill requires the Secretary of the Executive Office of Health and Human Services, among other things, to create a data collection system as part of the community-based crisis intervention services program, as well as to report annually to the legislature. Specifically, the Secretary will report to the joint committee on children and families and the house and senate committees on ways and means.