

<u>S1963</u>	<u>Category/§ Title</u>	<u>Current law MGL c. 119</u>	<u>S1963's Effect on Current Law</u>
39K	<i>Jurisdiction</i>	39E 1-2, 6-8	None
39L	<i>Nature of Proceedings</i>		
(a)	Not criminal No related records entered into CORI system	39E 5-6	Prohibit maintenance of any records re: request for assistance in CORI system
(b)	No records re: involved child will be maintained/active after dismissal of request for assistance	New	Records pertaining to child expunged upon dismissal of request
(c)	Confidential, closed to public	New	Heightens confidentiality of proceedings
39M	<i>Request for assistance</i>		
(a)	Proceeding initiated by filing of request for assistance	39E 1 – 3 :petitions seeking CHINS determination 39E 32 – 39: if child arrested petition issues, otherwise assign PO for informal assistance; on recommendation trial or back to PO	Clerk given more discretion, more procedural steps before proceedings initiated
(a)(1)	Request states petitioner's information and belief that:		
(a)(1)(i)	Child repeatedly: • Runs away from home, or • Disobeys lawful and reasonable commands of parents, resulting in parental inability to adequately care for and protect child • Disobeys lawful and reasonable school regulations, or • Is habitually truant	39E 9-14	Same
(a)(1)(ii)	Child under 19 y.o. when acts motivating request were committed	New	Raises juvenile jurisdiction by one year
(a)(1)(iii)	Child and family require assistance	New	Assess entire family situation, rather than just child

(a)(2)	Request based on specific acts, stating time and place where allegedly occurred	New	Heightens specificity needed in request to initiate proceedings
(a)(3)	School District Petitioner- Request additionally includes:	39E 15-18 “supervisor of attendance”(c76:19) can file	
(a)(3)(i)	Habitually truant- Statement of actions taken by school under its truancy prevention program (TPP) to improve child’s attendance Whether child and family participated in TPP Specific steps taken to prevent truancy	39E 15-18	Adds TPP requirements; school must be more active in helping to resolve issue underlying request
(a)(3)(ii)	Repeatedly disobeys school regulations- Statement of specific steps taken to control child’s conduct	39E 17-18	School must be more proactive in treating child’s misconduct
(a)(4)	Parent petitioner- Request additionally includes: Documentation that family informed re: CBS program/FRC, and that:	New	Parents must certify that they have been informed of available services
(a)(4)(i)	Family was referred to services	New	Provides court with more context re: family situation and history
(a)(4)(ii)	Family declined services, or	New	
(a)(4)(iii)	Services unavailable	New	
(b)	Following persons may file request to initiate proceeding		
(b)(1)	Police officer, if basis for request arose in course of official duties	39E 10 – 14 Police can only file for runaway or ungovernable	Can now file request while acting in course of official duties
(b)(2)	Parent, legal guardian, custodian	39E 9 – 14 Parent can file for runaway or ungovernable	Can now file for any of the 4 reasons
(b)(3)	School district, if request states that child repeatedly disobeys school	39E 15 – 18 fails to attend school or fails to obey law rules	School must take more proactive role, and document

	regulations or is habitually truant		specific steps taken, to remedy child's problem behavior
(c)(1)	Clerk determines whether family has received services before If Yes- Clerk identifies FRC/CBS provider in attachment to request If No- Clerk informs petitioner that request can be deferred, family referred to services; request can be refiled later if needed	New	Clerk contacts EOHHS to find out if family has received services Allows for deferral of judicial proceedings, creates opportunity for family to receive services prior to judicial intervention
(c)(2)(i)	Parent petitioner- Clerk provides info re FRC/CBS program If services available- Clerk contacts service for parent to complete referral If parent declines services- Clerk provides info re possible court orders, change in custody, services available through court process Parent must sign statement re declining referral and understanding court process before request accepted	New	Clerk must now inform parents requesting services of possible negative consequences of refusing referral and proceeding to formal adjudication (<i>i.e.</i> removal of child from home) Clerk provides written materials prepared by the court
(c)(2)(ii)	Police Officer Petitioner- Clerk contacts FRC/CBS program to complete referral before accepting request No referral if written statement by officer that referral would present risk of harm to child Clerk immediately:	New 39E 32 – 39 On arrest – petition issues immediately and PO inquiry as to informal assistance or trial. On PO's recommendation court may do trial on merits or "refer child to care of PO"	Offer to refer to services prior to accepting request, initiating proceedings Similar procedure as when child brought to court on arrest, but involve FRC/CBS provider at earlier stage

	Contacts FRC/CBS to notify of request, Create docket, Request immediate preliminary inquiry by PO		
39N	<i>Notice</i>	39E 77 – 92	
(a)	Copy of request, summons requiring child and custodial parent(s) to appear Safety/Well-Being Exception- Only primary custodial parent must appear	39E 77 – 83 Upon filing petition, summons to child; if failure to appear then “officer” brings child in 39E 83-84 Notice to DCF, DYS of hearing 39E 85 – 92	Adds Safety/Well-Being Exception – if necessary only parent with primary custody is noticed
(b)	Non-custodial Parent Petitioner- Same as above	39E 86 – 90	Notify non-custodial parent even if residing outside of the Commonwealth
(c)	Include notice that court may grant custody to DCF Parent responsible for any related child support	New	Greater transparency, parents more informed re: nature of proceedings
(d)	Personal service by constable/officer Waiver in writing	39E 93-99	Same
39O	<i>Probable Cause Hearing</i> W/in 15 days of creation of docket Evidence from: Petitioner, child, probation officer (if involved) Determine: 1. Whether probable cause to believe that child/family requires assistance 2. Best interest of child to proceed to fact-finding hearing Court may: 1. Dismiss request (records expunged), or 2. Create docket and refer to chief	39E 19 – 39 If child is not brought in on arrest – clerk “shall set a date for a hearing” (no time limit) on whether petition should issue 21-22 assign PO for preliminary inquiry At 1 st hearing Ct hears from PO: 24-27 – decline if no probable cause for CHINS 27-31 – decline if best interests served by informal assistance and then refer to PO if parent and child agree 31-32 Issue the petition and schedule “trial on merits” No time line for scheduling trial	Add 15 day scheduling requirement Similar to 2 nd hearing held under current law: best interests of child determination; dismiss or refer to PO for preliminary inquiry

	probation officer for preliminary inquiry		
39P	<i>Fact-Finding Hearing</i> <90 days from date request filed Parent, child, petitioner, or probation officer may request 90-day extension	New	Add 90 day scheduling requirement for evidentiary hearing (like current trial on merits) Delay referral to probation officer until after evidentiary hearing, determination that family/child requires assistance
39Q	<i>Appointment of Counsel</i>		
(a)	Child informed of right to counsel at all hearings Court will appoint counsel if child cannot retain; Notice to appointed counsel	39F 1 – 5 39G 1 – 2	Same
(b)	Parent informed of right to participate as party in any proceedings; Right to counsel at any custody hearing or proceeding Court may appoint	New	Senate bill gives Parents standing in all proceedings; and right to counsel in all proceedings that might result in transfer of custody
(c)	Determination whether parent is indigent If No- \$1,000 fee for child's appointed counsel If Yes, but can contribute- Reasonable amount toward cost of counsel	39F 5 – 12	Raise fee from \$300 to \$1,000
39R	<i>Preliminary Inquiry by Probation</i>		
(a)	Whether best interest of child require crisis intervention services (Probation officer's opinion)	39E 21 – 24, PO does preliminary inquiry for Probable Cause hearing 39E 33 – 39 Child in on arrest – Preliminary inquiry to	Shift focus of best interests inquiry: formerly whether issuance of petition served

	Officer has discretion to:	determine if BI require informal or trial on merits	BI, now whether provision of intervention services promotes BI of child
(a)(1)	Refer family/child to CBS,	New	Include CBS providers as possible referrals from PO
(a)(2)	Confer with FRC/CBS provider	New	Involve FRC/CBS providers in determination re: how services delivered most effectively
(a)(3)	Refer child for appropriate services (<i>i.e.</i> medical, dental, etc.)	39E 40 – 43 referrals, conferences ,agreements	Same
(a)(4)	Conferences with child, family, and petitioner Try to resolve situation that was basis for request Info only used in this proceeding, otherwise confidential	39E 44 – 47 39E 71 – 76 Statements (child or anyone else) cannot be used in trial on merits	Same kinds of activities – more confidentiality
(b)	Child's/Parent's failure to participate in good faith or if no services possible: Officer certifies such in writing to the court	39E 48 – 54 Participation is voluntary – but failure to participate can accelerate to petition or to trial on merits	Similar
(c)(1)	Establish data collection system re: Requests for assistance and how resolved, Race and ethnicity of each child, Insurance status and coverage of clients Length of time child received services, Organization providing services, Any other info to help evaluate availability and effectiveness of services	New	Improve accountability (current §39J) of agencies providing services; identify gaps in currently available sources;
(c)(2)	Probation officer will gather most of	New	Assign task of data-collection

	above info		to probation officer, rather than county/state treasurers
39S	<i>Temporary Custody, Failure to Appear</i> Finding by preponderance of evidence that child stated to be runaway or stubborn is not likely to appear, court may: Order release upon reasonable terms and conditions, or Transfer temporary custody to DCF If transfer, written determination that: Current placement is contrary to child's best interest, and DCF made reasonable efforts to prevent removal, or Immediate risk of harm/neglect prevents providing services as alternative Order for custody to DCF valid <15 days, up to 45 days total Extension hearing w/parent, child, counsel; preponderance of evidence that extension should be granted Cannot order custody to DYS, Cannot confine in shackles, court lockup facility, any juvenile delinquent facility Can be placed in therapeutic care group home where juvenile	39H 1-6 Child may be arrested if failed to appear or police have probable cause to believe a runaway and will not respond to summons 39H 42-59 Stubborn child found "not likely to appear" must post bail or be detained for 15 days, then hearing, up to 45 days 39H 47 – 49 39E 56 – 61 39G 38 – 45 39H 42 – 65	Lowers evidentiary threshold (Beyond reasonable doubt → Preponderance of evidence) Same Prohibit transfer of custody to DYS, use of lockup facilities pending adjudication

	delinquents receive services		
39T	<i>Withdrawal of Request for Assistance</i> Petitioner- Any time before dispositional hearing Probation Officer-May recommend any time that request be dismissed, showing of best interest of child	New	Petitioner may now withdraw request for assistance
39U	<i>Fact Finding Hearing</i>		
(a)	Evidence from Petitioner, Parent, Child, FRC/CBS representative Child and counsel must be present Parent given opportunity to be heard	39E 24 – 32	Allow FRC/CBS representative to present evidence, Parents given standing
(b)(1)	Dismiss request because underlying circumstances resolved, or Assistance offered will not benefit child or family; or	39E 24 – 27	Provides clerk with more dispositional options (No probable cause to believe child in need of services → Underlying problem resolved or Ineffective assistance)
(b)(2)	60 day adjournment b/c best interest of child served by informal assistance Refer to probation officer/FRC/CBS, with consent of child and parent	39E 27 – 30 39E 30 – 31	60 day, rather than 6 month, periods for provision of services Include FRC/CBS providers as referral options
(b)(3)	Finds statements in request proven at fact finding hearing by clear and convincing evidence Find child/family require assistance, schedule dispositional hearing	39G 2 – 7	Lower evidentiary threshold (Beyond Reasonable Doubt → Clear and convincing evidence)
(c)	No statements made during referral may be admitted at any hearing, May admit in writing to having made statement	39E 71 – 76	Limit confidentiality of statements to those made during referral, rather than entire process Process for acknowledging

			statement
39V	<i>Disposition Conference and Hearing</i>		
(a)	Confer with all involved parties upon finding at evidentiary hearing that child requires assistance Court will accept written recommendation from probation officer or any other person re: appropriate treatment and services, placement of child, conditions and limitations of placement Child and attorney must be present, parents given opportunity to be heard May receive evidence from anyone who may be helpful in determining appropriate disposition	39G 1 – 2 New	More parties involved in dispositional conferences Parents may be heard Court has broad discretion when receiving evidence
(b)	Consider admitted evidence, probation officer's report, physical and mental welfare of child May make following orders;	39G 2 – 7	Broader scope of admissible evidence
(b)(1)	Child remains w/parents, subject to limitations and conditions, including: Provision of services (medical, educational, etc), Supervision by court clinic, Counseling/guidance by any public or private organization, Any other services found appropriate	39G 8 – 12	Same
(b)(2)	Place child in care of following people, subject to conditions and limitations	39G 13 – 15	Same
(b)(2)(i)	Relative or other adult found qualified to receive and care for	39G 16 – 18	Same

	child		
(b)(2)(ii)	Private charitable organization, child care agency, other licensed private child care organization	39G 18 – 23	Same
(b)(3)	Custody to DCF Written certifications and determinations required by §29C If court transfers custody to DCF, then department:	39G 24 -28	Limit to 15-day periods, 45 days max
(b)(3)(i)	Will not refuse out-of-home placement if recommended by court	39G 30 – 33	Same
(b)(3)(ii)	Will not refuse out-of-home placement when requested by child if substantiated history of abuse/neglect	39G 35 – 37	Same
(b)(3)(iii)	Determine length of out-of-home placement	39G 33 - 34	Same
(b)(3)(iv)	Give due consideration to court's recommendations If DCF does not carry out court recommendations re: placement and treatment of child, must present in writing reasons for decision and alternative treatment plan	39G 28 – 30 New	Same DCF must explain in writing why not carrying out court's recommendations (improve accountability of DCF when providing services)
(b)(4)	Court may recommend provision of particular services Agency determines alternative services, otherwise can't comply- Must provide written statement why Annual report by EOHHS re: # cases in which agency provided alternative to court	New New New	DCF must provide written statement re: provision of services other than those recommended by court New reporting requirement for EOHHS re: discrepancies between court recommended services and services

	recommendations, Reasons for not providing recommended services, Nothing in this section entitles child to services for which otherwise ineligible	New	provided by DCF
(b)(5)	Insurer cannot deny payment for court-ordered services if otherwise eligible for coverage	New	Close potential loophole in insurance coverage for court-ordered services
39W	<i>Prohibitions on placements w/DYS or locked facility</i>		
(a)	Cannot order child placed in custody of DYS	39G 44 – 45	Transfer of custody to DYS no longer a dispositional option
(b)	Cannot place in locked facility or facility designated for juvenile delinquents Can be placed in therapeutic-care group home where delinquents also receive services	39G 39 – 41 39G 41 – 45	Same
39X	<i>Duration of Assistance</i>		
(a)	Order of disposition in force for <120 days After hearing, three 90-day extensions, if finding that: Purpose of order not accomplished, and Each extension reasonably likely to further such purpose Child and parent have opportunity to present and rebut evidence at any extension hearing	39G 46 – 47 39G 47 – 51 New	Formerly 6-month service periods, now initial 120-day period with 3 90-day extensions Same reasoning for extensions Allows greater participation of family and child at extension hearings

(b)	No order in effect after child's 19 th birthday	39G 52 – 58	Raise juvenile jurisdiction from 18 to 19 years of age
39Y	<i>Custodial Protection</i>		
(a)(1)	Child taken into custodial protection for §39M behavior only if: Child failed to obey §39N summons, or Police officer initiating protection has probable cause to believe that child runs away from home, and Will not respond to summons	39H 1 – 16 Child may be arrested for CHINS behaviors if failure to obey summons or runaway	Same
(a)(2)	Immediately notify parent that child in custodial protection	39H 21 – 24	Parent notified first, rather than probation officers or DCF
(a)(3)(i)	Officer shall, after every reasonable effort to give notice, Release child to custody of parent upon written promise that parent will cause child to appear at next court date	39H 17 – 20 39H 21 – 38	Clearly prioritize release into parent's custody over any transfer of custody; Allows parent, not just child care agency or organization, to assume responsibility for child's appearance at next court date
(a)(3)(ii)	Cannot take child to police station first Take child directly to CBS/FRC	39H 21 – 38	Shift emphasis from detention to provision of services
(a)(3)(iii)	Release to DCF representative, if officer has reason to believe that child is, or has been, in care/custody of DCF	39H 21 – 24	Same
(a)(3)(iv)	Take child directly to juvenile court, if officer affirms on record attempts to exercise options in §(i)-(iii), reasons why unable to do so	39H 31 – 38	Officer must go on record re: attempts to divert child from court system
(a)(4)	Absent special circumstances,	39H 21 – 24	Release to parent is default

	release child to parent		disposition
(a)(5)	Cannot detain in police station/town lockup, locked facility, or facility designated for use by juvenile delinquents, except group home providing therapeutic services	39H 42 – 65	Use of police stations, lockups as temporary holding facilities for child who is subject of request now prohibited
(a)(6)	Child in custodial protection will receive any necessary medical treatment or observation	39H 39 – 41	Same