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"GLORIFIED BABYSITTERS," "BAD KIDS," AND THE SYSTEM THAT FAILS THEM: CHINS IN REFORM

In 1646, Massachusetts crafted the first law in the country to punish "stubborn and rebellious" children. The law, which was copied almost entirely from a passage in Deuteronomy, is so strikingly harsh to observers of the modern juvenile court system that it is worth quoting at length:

> If a man have a stubborn or rebellious son, of sufficient years and understanding (viz.) sixteen years of age, which will not obey the voice of his Father, or the voice of his Mother, and that when they have chastened him will not harken unto them: then shall his Father and Mother being his natural parents, lay hold on him and bring him to the Magistrates assembled in Court and testify unto them, that their son is stubborn and rebellious and will not obey their voice and chastisement, but lives in sundry notorious crimes, such a son shall be put to death.[1]

Although there is no evidence that any child was sentenced to capital punishment,[2] the message was clear: "stubborn or rebellious" children would not be tolerated in Massachusetts.[3]

That statute was sensibly reformulated in 1973 as Children in Need of Services (CHINS),[4] a non-criminal statute that was designed to help "disobedient, but not delinquent,

[1] Statute of the Massachusetts Bay Colony (1946), modeled after Deuteronomy 21:18-21. Ann Kirson Swersky, *Reflections on the Stubborn Child Law in the Commonwealth of Massachusetts from a Biblical and Talmudic Point of View, available at* http://www.h-net.org/~child/conference05/swersky.doc. Professors Irene and Yale Rosenberg famously opened their article, *The Legacy of the Stubborn and Rebellious Child*, 74 MICH.L. REV 1097, 1097, with the actual passage from Deuteronomy.
[2] *See* Swersky, *supra* note 1.
[3] In 1971, the Massachusetts Supreme Court rejected a constitutional challenge to the state's then "stubborn child" law. Commonwealth v. Brasher, 359 Mass. 550 (1971).
[4] The CHINS laws can be found in MASS. GEN LAWS ch.119 §39E-J (2005).

children get the help, services, and treatment they need."[5] Laws like CHINS have been enacted in nearly every state to manage "status offenses," behavior that is an offense only because of the youth's age.[6] Although the CHINS statute is non-punitive, the underlying principle of the original law still applies: If a youth does not obey the lawful and reasonable commands of his parents, does not attend school, violates the regulations of the school or persistently runs away from home, a parent, probation officer, police officer or school official may file a petition alleging that the child is in need of services with the Massachusetts Juvenile Court.[7]

Despite -- or perhaps, because of -- the long history of status offense jurisdiction in Massachusetts, loud calls for reform have long flooded the legislature.[8] Recent statistics on CHINS youths have only fueled these grievances. In 1998, the Massachusetts Commissioner of Probation published statistics that over half of all CHINS had been arraigned for juvenile delinquent offenses or adult criminal offenses within three years of their first CHINS petition.[9] Citing these statistics, Citizens for Juvenile Justice gave CHINS a "C" grade, stating that "clearly, CHINS is a failing system."[10] Now the legislature is considering making sweeping changes to address the underlying problems with the system. CHINS is ripe for reform.

This paper will first explain the current CHINS statute and juvenile court process to set the backdrop of the reform movement. It will then enter the debate over whether CHINS should be under the jurisdiction of the juvenile court at all, and explore what kind of authority, if any, juvenile court judges should have over status offenders. Ultimately concluding that CHINS

[5] MASSACHUSETTS JUVENILE COURT BENCH BOOK, PART II, CHINS (Jay Blitzman et. al, eds., 1998).
[6] Running away from home, for example, is not a crime for an adult, as it is for a juvenile.
[7] MASS. GEN LAWS. ch. 119 § 21
[8] In Massachusetts, there have been at least four separate commissions that have offered recommendations for reform. *See* Citizens for Juvenile Justice, *A Report Card On CHINS In Massachusetts* 3 (2000), *available at* http://www.cfjj.org/Pdf/CHINS.pdf.
[9] *Id.* at 2.
[10] *Id.* at 1.

should remain under the court's authority, this paper suggests various reforms to guide the legislature in crafting a statute that can best fulfill its goal of helping children "in need."

I. Backdrop of Reform

The Massachusetts legislature last dramatically reformed the CHINS statute in 1973. Prior to this legislation, the law governing "status offenders" provided that youths could be sanctioned under the criminal law with a fine or imprisonment in the Department of Youth Services (DYS) (then called the Youth Service Board.)[11] Under the leadership of Jerome Miller, who had been hired to "clean up a range of scandals and abuses" in DYS, Massachusetts soon led the charge to remove many juveniles from abusive "youth prisons" (then known as "training schools").[12] In 1972, the Commonwealth of Massachusetts closed the last of its juvenile institutions.[13]

In doing so, Massachusetts set a "local precedent" for a nationwide deinstitutionalization mandate.[14] In 1973, Congress passed the Juvenile Justice and Delinquency Prevention Act, whose "primary purpose . . . was to stimulate the development of alternatives to traditional facilities and practices in order to fill the gap between ignoring the needs of troubled youths and reliance on incarceration."[15] To receive federal funding under the Act, states had to "provide within two years . . . that juveniles who are charged with [status offenses] shall not be placed in

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[11] MASSACHUSETTS JUVENILE COURT BENCH BOOK, *supra* note 5.

[12] Barry Krisberg, *Reforming Juvenile Justice*, AM. PROSPECT ONLINE, Sept. 1, 2005, http://www.prospect.org/web/page.ww?section=root&name=ViewPrint&articleId=10120). Krisberg continues: "[At DYS Miller] encountered an intransigent bureaucracy. Corrections officers opposed even such modest reforms as letting youngsters wear street clothing instead of prison uniforms, or not requiring that their heads be completely shaven. Undeterred, Miller decided to close down the state's network of jail-like training schools. As the young inmates of the notorious Lyman School were loaded onto a bus that would take them to dorms at the University of Massachusetts, to be housed temporarily until being reassigned to community programs, one top Miller deputy proclaimed to the shocked guards, 'You can have the institutions; we are taking the kids.'" *Id.*

[13] Gwen A. Holden & Robert A. Kapler, *Deinstitutionalizing Status Offenders: A Record of Progress*, 2 JUV. JUST. 3, 3, *available at* http://www.ncjrs.gov/pdffiles/jjjf95.pdf.

[14] *Id*. at 3.

[15] John M. Rector & Richard Van Duizend, *New Directions for Juvenile Justice*, 39 Ohio St. L.J. 347, 356 (1978).

juvenile detention or correctional facilities, but must be placed in shelter facilities."[16] It is likely not coincidental that these reforms came in the wake of increased appellate scrutiny of the juvenile court; in 1967, for example, the Supreme Court required that minors in juvenile court be provided the same due process rights as those in criminal courts. As Justice Fortas opined, "[u]nder our Constitution, the condition of being a boy does not justify a kangaroo court."[17]

No "kangaroo" juvenile courts operate today in Massachusetts; youths, including status offenders, are accorded all the measures of due process, including the right to counsel. The very statute that was amended in 1973 now operates in the juvenile courts today, and the procedures differ little from when the statute was first enacted. The number of CHINS youths, however, is as high as ever; approximately 9,000 CHINS petitions were filed in Massachusetts in 2004.[18] Although most of these petitions are eventually dealt with informally,[19]once a petition is filed, the Juvenile Court formally becomes involved.[20] The judge sets up a hearing to determine whether there is probable cause for the petition; if the petition does not meet that standard, it is denied. If the judge does find probable cause, she may issue the CHINS petition and schedule a trial, or she may determine that it is in the best interests of the child to meet the child's needs through "informal assistance." If the judge determines that informal assistance is best, the judge must have the parent's permission to decline the petition. If the CHINS petition issues, the youth

[16] Holden & Kapler, *supra* note 13.
[17] *In Re* Gault, 387 U.S.1, 28 (1967). To bolster this assertion, Justice Fortas quoted Dean Pound: "The powers of the Star Chamber were a trifle in comparison with those of our juvenile courts . . . ." *Id.* at 18.
[18] Citizens for Juvenile Justice, *supra* note 8, at 2.
[19] HON.R. MARC KANTOWITZ, AMY M. KARP, ESQ., & HON. STEPHEN M. LIMON, MASSACHUSETTS JUVENILE DELINQUENCY & CHILD WELFARE LAW 371-372 (2005). The Supreme Judicial Court Commission found that "the majority of cases, some 75%, are diverted to informal probation." SUPREME JUDICIAL COURT COMMISSION ON JUVENILE JUSTICE, FINAL REPORT (June 1994) [hereinafter SJC REPORT]. This is roughly equivalent to the national average. *See also* David J. Steinhart, *Status Offenses*, 6 The Future of Children 86, 87-88 (Winter 1996) ("Nationwide, about 80 percent of status offenders are diverted from the court without filing a petition.").
[20] MASS. GEN LAWS ch.119 §39E-J (2005). For a full description of the CHINS process, *see* KANTOWITZ ET. AL, *supra* note 19, at 371-72.

has a right to a trial, which may be exercised in front of a jury unless that right is waived.[21] Once a child is adjudicated, parents do not have the right to withdraw the child from the proceedings.[22] Nor do the parents have a right to a lawyer or any legal standing in the court. Rather, the proceeding is almost completely child-focused.

If the judge or jury finds that the child is in need of services beyond a reasonable doubt, the judge faces three options at disposition. First, the judge may allow the child to stay in the parents' home, possibly with certain conditions imposed. Second, the child may be placed in the custody of a relative, a private charitable or childcare agency, or private organization the judge determines can best care for the child. Finally, the judge may place the child in the custody of the Department of Social Services. [23]

The judge, however, does not have the authority to place the child in a secure detention facility or to hold the child in contempt of court if an order is violated.[24] Nor does the judge have the authority to direct the Department of Social Services to provide a specific service for a child, absent a finding of abuse of discretion by the agency -- a difficult burden to overcome.[25] Each CHINS case must be reviewed every six months, and must be dismissed if the judge finds that the objectives of the petition have been met. If the CHINS petition is mainly a truancy case, it must automatically be dismissed when the youth turns sixteen, as the child can legally drop out of school at that age.

These procedures, which have now operated in Massachusetts for over thirty years, have come under fire from all quarters. No-one is currently happy with the statute, and everyone

[21] Jury trials are rarely held.
[22] *In Re* Gail, 417 Mass. 321 (1994)
[23] *Id.*
[24] Commonwealth v. Florence, 429 Mass. 523, 523 (1999).
[25] Care and Protection of Jeremy, 419 Mass. 616, 646 (1995). The judge also may not order that the juvenile be named to a specific private school and for the county to pay the costs, Oscar F. v. County of Worcester, 412 Mass. 38 (1992), or order a child directly to attend school, School Comm. Of Worcester v. Worcester Div. of the Juvenile Court Dep't, 410 Mass. 831, 836 (1991).

agrees that its problems are numerous and pervasive.[26] For example, many participants feel that the current law focuses too exclusively on children, and does not adequately address the bare fact that many cases can not be adequately addressed without looking to the family as a whole.[27] Families, social workers and probation officers often contend that the services are poor and inconsistent, and that different state agencies and providers do not communicate with each other properly.[28] Judges complain that they have no power over CHINS cases, so they are in the frustrating position of lacking real authority to order kids who desperately need help to seek services or a safe environment.[29] Activists contend that judges are taking too many children needlessly from their homes and putting them in the Department of Social Services.[30] Moreover, nearly everyone agrees that little or no data is being collected on a systematic level in the CHINS cases -- or if any is collected, it is jealously guarded -- so most do not even know what happens to the kids.[31] Nor are many CHINS lawyers seeking appeals to the higher courts, with the result that the issues arising in these cases are not analyzed on a statewide level.

The list continues. Still, the willingness of the parties to change has made the prospect of reform very attractive, even if there is wide disagreement on what a new statute would look like. Perhaps more interestingly, many commentators now argue that it is finally time to terminate 360 years of juvenile court jurisdiction over these youths and remove status offenders completely from the juvenile justice system. At the writing of this paper, the Joint Committee on Children

[26] The following complaints from reform are distilled from numerous interviews with judges in the Boston Juvenile Court, CHINS reform meetings at the Massachusetts Statehouse, interviews and conversations with lawyers from the Department of Social Services and the Department of Youth Services, probation officers, social workers, and personal observations.
[27] *See e.g.*, Children's League of Massachusetts, *A Blueprint for Reforming CHINS*, July 2005, *available at* http://www.mspcc.org/_uploads/documents/live/Blue_Print_for_Reforming_CHINS.pdf.
[28] *See, e.g.*, Molly Armstrong, Martha P. Grace, Neva Grice, Harry Spence & Patricia Wynn, Preventing Juvenile Crime: The CHINS Law, Live Panel (2003), *available at* http://forum.wgbh.org/wgbh/forum.php?category=Law (hereinafter CHINS Panel).
[29] All of the judges interviewed in the Boston Juvenile Court expressed this frustration.
[30] *See, e.g.*, CHINS Panel, *supra* note 28.
[31] *See, e.g.*, Citizens for Juvenile Justice, *supra* note 8 at 16-17.

and Families in the Massachusetts legislature is only at the very start of its drafting process, and has not yet decided what approach it will take in reforming the statute.[32] Nor are the chances of a revised statute passing in the legislature known at this point. Yet, hopefully, after the years of complaints and the obvious need for reform, the legislature will take the spirit of reform to heart to effect meaningful change in the CHINS system.

II. The Uncertain Role of the Juvenile Court in CHINS

Preliminary questions of judicial power often frame the question of status offense reform. Indeed, much of the debate has focused on the judicial role in CHINS, because the statute requires the presence and active involvement of many status offenders in the juvenile courts. Suggestions for reform have hardly been nuanced; rather, advocates tend to contend either that the courts should be completely removed from the CHINS system, or that judges should have more authority over their dispositional options once a child is adjudicated "in need of services."

a. Should the Courts Play Any Role in CHINS?

Since the 1970s, much of the debate concerning status offenses has surrounded the question of whether these children need to be in the courts at all; rather than having the court system involved, many have proposed that youths who would otherwise be issued a CHINS petition be sent directly to a networked system of services. Most prominently, the Massachusetts Supreme Judicial Court Commission on Juvenile Justice in 1994 proposed the repeal of the CHINS statute entirely, to be replaced with a "more holistic approach for those cases which cannot be diverted or for which diversion is not the most effective technique."[33] The bill that

[32] A visit to several CHINS reform meetings on April 21, 2006 suggested that several directions and approaches may be taken, including possibly emulating Florida's CHINS statute, and changing the statute to a family-based, rather than child-based statute. But at the writing of this paper, the revised statute had not yet been drafted, and the committee was still eliciting ideas for reform.

[33] SJC Report, *supra* note 19, at 11.

sparked the most recent reform movement in the Massachusetts legislature suggested this very measure, but a simple repeal of the statute seems unlikely.[34]

Questions concerning the proper judicial role in CHINS have long fueled a series of nationwide debates among scholars and legislatures about the role of status offense jurisdiction. The debate was ignited in 1977 when the Institute of Judicial Administration and the American Bar Association Joint Commission of Juvenile Justice Standards recommended "the elimination of status offenses from juvenile court jurisdiction."[35] The Standards for Noncriminal Misbehavior, which explained this recommendation in significantly more detail, determined that "[a] juvenile's acts of misbehavior, ungovernability, or unruliness which do not violate the criminal law should not constitute a ground for asserting juvenile court jurisdiction over the juvenile committing them."[36] In support of the new measures, Professor Orman W. Ketcham argued that scarce resources, the frequent removal of children from their homes for apparently no reason, and the belief that status offenses were labeling non-delinquent children unnecessarily required removing status offenders from the court system.[37] Moreover, he argued that the system impeded the growth of voluntary social services.[38] Professor Ketcham provocatively supported his arguments with this "adaptation of an old prayer:"

> God grant unto juvenile court judges the competence to intervene effectively into the lives of juveniles who are a serious hazard to our society, the forebearance to refrain from coercive interference

[34] For a history of this bill, which is now being considered by the Joint Committee on Children and Families under the leadership of Senator Karen Spilka, see http://www.mass.gov/legis/184history/h02828.htm. At an April 21, 2006 meeting, the members of the committee who will ultimately draft the eventual statute focused more on significant reform, rather than repeal, of the statute.

[35] INSTITUTE OF JUDICIAL ADMINISTRATION & THE AMERICAN BAR ASSOCIATION JOINT COMMISSION OF JUVENILE JUSTICE STANDARDS, STANDARDS RELATING TO NONCRIMINAL MISBEHAVIOR (1977) [hereinafter STANDARDS].

[36] *Id*.

[37] *See* Orman. W. Ketcham, *Why Jurisdiction Over Status Offenders Should be Eliminated From Juvenile Courts*, 57 B.U. L.Rev. 645 (1977).

[38] *Id*. at 653.

> in interpersonal, family conflicts which are private, and the wisdom to discern the difference.[39]

The Supreme Judicial Court's Commission echoed many of these concerns in its own suggestions for CHINS reform. For example, the Commission argued that "the resources of the court and child welfare organizations are used more effectively if CHINS cases are left to schools and child welfare organizations unless a Care & Protection filing is warranted."[40] Similarly, the Commission argued against the unnecessarily labeling of a child in need of services as lending "credence to the misperception" that truants, runaways and disobedient children "are acting alone and without reason, and require state intervention."[41] At a recent "best practices" gathering of social workers, mental health workers, and representatives from various youth state agencies, the general consensus was that as many youths should be diverted from the court system as possible.[42]

Yet, many others argue that the authority of the court is still required to make the system truly effective. As Professor John DeWitt Gregory declared, "[p]roponents of abolition have not devised or proposed truly realistic alternative approaches that will resolve the serious societal problems which are now addressed by the existing statutes; indeed, abolition is likely to give rise to a set of problems which could well make the cure worse than the disease."[43] Moreover, he argued that children who have "refused voluntarily to go to school or respond to parents . . . will be any more willing to look to and respond to the guidance of strangers."[44] He likewise asserted that there was no stigma attached to being a CHINS child, and that family autonomy was not threatened, but rather preserved by status offense proceedings: "[I]t may be suggested that [status

[39] *Id.* at 646.
[40] SJC REPORT, *supra* note 19, at 13.
[41] *Id.* at 13.
[42] This meeting took place at the Massachusetts Statehouse on April 21, 2006.
[43] John DeWitt Gregory, *Juvenile Court Jurisdiction Over Noncriminal Misbehavior: The Argument Against Abolition*, 39 OHIO ST. L.J 242, 245 (1978).
[44] *Id.* at 269.

offense] jurisdiction similarly serves the purpose of protecting family integrity by dealing with children whose behavior imperils it."[45] Finally, Professor Gregory argued that the abolition of status offense jurisdiction would not take youths out of the court system, but may, paradoxically, entangle more children into the legal system: "A policeman facing a situation in which temporary detention is not authorized may choose the obvious alternative of lodging a form of cover charge, such as harassment, resisting arrest or the like, available under the court's juvenile delinquency jurisdiction, as a basis for detaining the child, and thereby at least resolving the immediate problem."[46]

Pragmatically, others have determined that even in a perfect world of no CHINS, "communities not only will not, but many cannot, provide restorative services that will be used willingly by even a majority of the troubled juveniles and their families in the community."[47] As another commentator aptly put it: "Will providers of those services recreate the problems associated with juvenile court intervention in a child's liberty without any of the processes associated with even traditional juvenile court practice?"[48] Moreover, it is questionable whether families will actually seek out services without court intervention; many families are fearful of the Department of Social Services, particularly immigrants who are afraid of enmeshing themselves in the legal system. "Stubborn" youths will likely not feel duty-bound to seek services voluntarily, either. Additionally, funding remains an ever-present problem, and legislatures in other states have not yet demonstrated a commitment to properly funding services for status offenders.[49] Agencies may also inhibit the delivery of services by finger-pointing at other agencies, with the result being that a family is caught in the middle of agency squabbling.

[45] *Id.* at 263.
[46] *Id.*
[47] Lindsay G. Arthur, *Status Offenders Need a Court of Last Resort*, 57 B.U. L. Rev. 631, 643 (1977).
[48] Teitelbaum, *supra* note, at 173.
[49] Steinhart, *supra* note 19, at 94.

On top of this, the proposal may well be politically unfeasible, with not all juvenile judges desiring to relinquish their role -- however feeble -- in the system.

Thus, although strong arguments may support the removal of CHINS cases entirely from the Court, ultimately, these efforts are unwise. Most CHINS cases are diverted from the courts very early, with only the more serious cases presented to the judge. As many judges have noted, the "cloak of authority" of the juvenile court puts more weight on both the child and the family to comply. Moreover, judges and probation officers involved in these cases may be more likely to catch underlying family problems, and file petitions for care and protection proceedings; adding more "privacy" to the system may only veil abusive or dangerous family situations. As Professor Arthur argues, "courts *are* able to resolve many family problems that would not be resolved without a court's involuntary intercession . . . . Every possible case should be diverted, and every possible resource should be developed to allow maximum diversion; but courts should be, they must be, available to require needed help when it is refused or ignored."[50] Although the poor statistics concerning the future of CHINS kids in the court system provide an excellent impetus for reform, these numbers will not improve with the repeal of the statute; rather, the numbers will just be unknown.

b. Judges Should Be More Than "Glorified Babysitters"

If judges are to have any role in the CHINS system -- and they should -- the legislature should increase judicial authority in these cases. As the statute stands now, judges do not have the power to order the child to do anything at all; under the rationale that CHINS is a non-punitive statute, judges can not, for example, directly order a child to attend school,[51] put a child in a secure detention facility if the child repeatedly runs away, or enforce any kind of contempt

[50] Arthur, *supra* note 47, at 643.
[51] School Comm. Of Worcester v. Worcester Div. of the Juvenile Court Dep't, 410 Mass. 831, 836 (1991).

order.[52] Nor do the judges in CHINS case have any legal authority over the parents.[53] (They can, however, give conditions that must be met for custody to remain with the parent.[54]) Moreover, judges do not have the authority to order the Department of Social Services to place a child in their custody in a specific program.[55] In fact, the only real authority a juvenile court judge has is to remove the child from the home if the child has been adjudicated a "child in need of services" and removal is in the child's best interest. Because of these limitations, many judges feel they cannot tell the children to do anything at all; one judge, for example, noted that when he started on the bench, he determined never to give an order that he could not follow through on.[56]

The lack of contempt power over CHINS youths has been a divisive issue in Massachusetts, with many judges desirous to have the power to give and enforce orders. In 1999, the Supreme Judicial Court ruled in *Commonwealth v. Florence*[57] that the Juvenile Court does not under the current statute have the power of contempt over CHINS cases. Yet Judge Ireland, himself a former Juvenile Court judge, did not mask his frustration at this outcome. He wrote, "[a]lthough we conclude that . . . because the plain language [of the CHINS statute], as well as our case law, precludes Juvenile Court judges from issuing direct orders in CHINS cases, thereby prohibiting that court from charging a child with criminal contempt, we urge the Legislature to address and resolve this well-known and long-standing problem."[58] As Judge Ireland elaborated:

> Juvenile Court judges often find themselves "between a rock and a hard place" in CHINS cases. On the one hand, they are asked to compel a child

[52] Commonwealth v. Florence, 429 Mass. 423 (1999).
[53] The school can, however, press charges against a parent for "failure to send" to school. The fine, however, is only twenty dollars. MASS. GEN. LAWS. ch. 76 §1 (2006).
[54] *In re* Vincent, 408 Mass. 527, 528 (1990).
[55] Care and Protection of Jeremy, 419 Mass. 616, 646 (1995).
[56] Anecdotally, some Boston Juvenile Court judges have recalled that one (now retired) judge, so frustrated with his lack of authority over the children, used to threaten to send them to a (fictional) "pig farm." This of course only worked on the more timid children; the bolder ones would say they were fine with going, thus revealing the entire sham.
[57] Commonwealth v. Florence, 429 Mass. 523 (1999).
[58] *Id*.

> to attend school; on the other hand, they have no tools to make a child comply with their orders. CHINS have always been a major headache to the juvenile court. They fall between the chairs, so to speak. They are not the dependent children who are clearly entitled to the full protection of the juvenile court. Neither are they law breakers entitled to whatever firm or lenient . . . treatment the law or individual judge feels appropriate for such offenders. . . . Often a Juvenile Court judge finds himself acting as a glorified babysitter . . . a frustrated judicial truant officer, [and] a reluctant enforcer of curfew laws, working in an extremely frustrating environment.[59]

These frustrations echo many of the sentiments of the current Juvenile Court judges, who feel that they are given a large task in the CHINS process with no tools to complete it.

Still, many factors counsel against the imposition of contempt powers for judges. The CHINS statute is a non-punitive statute designed to help, and not punish, youths; allowing judges contempt power would, many argue, subvert the rehabilitative purpose behind the statute. Similarly, the Juvenile Justice and Delinquency Prevention Act,[60] which grants funds to states on the condition that they deinstitutionalize status offenders, has the stated policy to "develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization."[61] Allowing judges contempt power may violate this principle. Indeed, "in practice, little difference exists between effective coercive civil contempt and punitive criminal contempt in CHINS cases."[62]

The Juvenile Justice and Delinquency Prevention Act, however, was later amended in 1980 to allow states to give juvenile judges a contempt power if juveniles violate a "valid court order" and still keep their funding.[63] The amendment "was enacted on the recommendation of

[59] *Id.* at 10-11 (citations omitted) (internal quotation marks omitted).
[60] 42 U.S.C § 5601 (2006).
[61] *Id.*
[62] Citizens for Juvenile Justice, *supra* note 8, at 17-18.
[63] 42 U.S.C. § 5633(a)(12)(A)-(B).

the National Council of Juvenile and Family Court Judges, who testified that the deinstitutionalization mandate had compromised their ability to protect some at-risk juveniles, particularly chronic runaways or chronic truants."[64] Even more evocatively, Professor William Kearon has argued that although deinstitutionalization may be best for many status offenders, "it has released others into the grasp of hustlers, pimps, pornographers, gangsters, rapists, and murders who are ready to exploit the youthfulness of their victims."[65] It seems as if every judge in the Boston Juvenile Court has an anecdote about runaways mocking the authority of the court in a CHINS proceeding, and stating -- usually correctly -- that they will run away as soon as they are put in a Department of Social Services placement. Such a placement, however, is the only option available to Massachusetts judges. Others may end up in inappropriate mental health placements; in some instances, deinstitutionalization has caused subterfuge, with wealthy parents committing their children to mental health hospitals,[66] or police charging the child with a minor delinquent offense to allow the judges the power of commitment.[67]

Massachusetts has not amended its statute to give its juvenile judges the power to issue orders or the power to enforce them through the contempt power. Other states, however, have. Illinois's status offense statute, for example, provides that the court can order the child to attend school or participate in a program of training, with orders enforced by contempt proceedings.[68] Similarly, Florida gives the court the power to order a child to attend school, with the mandatory participation and cooperation of the family. Here too, the court can use its contempt powers to

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[64] DOUGLAS E. ABRAMS & SARAH H. RAMSEY, CHILDREN AND THE LAW 1017 (2000).
[65] *Id.* at 1023 (quoting William G. Kearon, *Deinstitutionalization, Street Children, and the Coming AIDS Epidemic in the Adolescent Population*, 41 Juv. & Fam. Ct. J. 9, 9-10 (No. 1 1990)).
[66] As one commentator has noted, "Hospitals are rapidly becoming the new jails for middle-class and upper-middle-class kids . . . usually committed for medical problems that do not require hospitalization and for which there is little evidence that psychiatric intervention is appropriate or effective." Abrams & Ramsey *supra* note 64, at 1024 (quoting IRA M. SCHWARTZ, (IN)JUSTICE FOR CHILDREN: RETHINKING THE BEST INTERESTS OF THE CHILD 137, 143 (1989)).
[67] Critics have not considered this to be a problem in Massachusetts.
[68] 705 ILL. COMP. STAT. ANN 405/3-1to 3-33 (2006).

enforce the order.[69] In Florida's statute, moreover, a child in contempt of court may be put in a secure facility, though the child can not held longer than 24 hours without a hearing that produces specific findings.[70]

Similarly, despite the many drawbacks, Massachusetts judges need the limited authority to send certain youths to a secure detention facility for their own safety. Citizens for Juvenile Justice calls for a statutory amendment "allowing a judge to order a youth to a secure DSS stabilization, assessment and treatment program, if the youth is demonstrating repetitive high-risk CHINS behavior and has repeatedly failed to comply with appropriate and available services."[71] This would apply particularly to runaways, whose safety a judge often justifiably believes is jeopardized. A judge could only issue this order, if the "Commonwealth proves that appropriate and available services were offered, were not successful and that no reasonable alternative to secure DSS placement exists."[72] Certain procedures, including time-limits, sufficient funding and due process guarantees, would be required to implement this properly. Still, the limited scope of this amendment appears to provide a reasonable solution; children would not be held when they could be served more appropriately with community-based services. Moreover, once the youths realize that the judges have this power, they may be more inclined to follow judicial orders or cooperate with informal probation.

These questions regarding the court's role are only preliminary; once it has been determined that judges need to be a part of the CHINS process, many other changes -- both statutory and otherwise -- need to be addressed in reforming CHINS. As Citizens for Juvenile Justice has noted, "a common criticism [of CHINS] remains that the statute has 'no teeth.'. . . .

[69] FLA. STA. ANN. § 984.22(6) (2005).
[70] *Id.*
[71] Citizens for Juvenile Justice, *supra* note 8, at 18.
[72] *Id.* at 18.

However, the description veils the complex nature of CHINS cases, the systemic dearth of services and failure to hold all parties accountable."[73]

III. Additional Proposals for Reform

Several other options can help to supplement increased judicial authority and solve other problems with the CHINS system. These include offering different options for placements outside of the home; focusing more attention on families in the CHINS process, including providing parents with legal standing in court; thoroughly evaluating of the quality, speed and consistency of services; and collecting and publishing complete data on CHINS youth. Each of these solutions complements the others, and accepting one does not require disregarding another; all of these suggestions should be implemented together. In the long run, however, even if all of the proposed changes are adopted, the legislature should re-evaluate the current, fragmented nature of all juvenile court proceedings, so that the needs of the children can be met with a more holistic process.

a. Less DSS, More Respite Care

Because judicial authority to place a youth in a secure detention facility should be used in only the most extreme circumstances, Massachusetts should adopt more of a "respite" approach for CHINS children -- a tactic that involves placing children in temporary shelters and homes where children and parents can "take a break" from each other and then ultimately reunite with the help of extensive mediation.[74] As the law currently stands, many judges place children in the custody of the Department of Social Services, who then place children in foster homes because of a lack of other options. Yet, respite would be a viable alternative to traditional foster home care. As the Vera Institute of Justice has noted, "respite care can serve as the first in a series of

[73] *Id*. at 20.
[74] *See* Eric Weingartner & Andrea Weitz, Vera Institute of Justice, *Respite Care: An Alternative to Foster Care For Status Offenders in New York City* (July 2002), *available at* http://www.vera.org/publication_pdf/196_376.pdf.

rehabilitative services designed to prevent future crises by giving family members a needed break from one another, using trained counselors to help them get to the root of their problems, and reunifying them quickly."[75] In respite care, CHINS youths would have a brief period of time, perhaps a weekend, to "cool off" before going back home. Such a service would reduce the chances of extended custody with the Department of Social Services when children and their parents may only need a "break" from each other. Programs like these would also be a significantly cheaper alternative to extended periods of time in foster-care custody; in Oneida, New York, the cost of a non-secure foster home care for a status offender was $5112 for 24 days, compared with $825 for home respite care and $1980 for group home respite care.[76]

An example of such a respite facility is already operating in Massachusetts. The Bridge Over Troubled Waters Runaway Program, which was established in 1970, recruits unpaid families to voluntarily shelter children for up to three days. The youths spend the nights and weekend days with their host family, and report to the agency's offices. The agency also provides comprehensive health, educational, substance abuse and counseling services, and can help reconnect children with their families after they finish the program. For many youths, this is a safe space away from the streets, and allows them the time and services need to get back on track. Similar programs exist in other states, consisting either of a network of "safe homes" to place children in, or a house maintaining several beds for runaways or children who need a brief period of time away from their families. If reunification is not possible or desirable, the respite

[75] Fiza Quraishi, Heidi J. Segal & Jennifer Trone, Vera Institute of Justice, *Respite Care: A Promising Response to Status Offenders at Risk of Court-Ordered Placements* 2 (Dec. 2002), http://www.vera.org/publication_pdf/196_376.pdf. *See also id.*
[76] *Id.* at 7.

care homes can help the youth and the state find appropriate, alternative arrangements with another relative or foster home.[77]

Such programs should be replicated and funded on a mass scale in Massachusetts. They could offer all children -- not just runways -- the opportunity to have a safe space apart from a family in a time of need, rather than a long term placement in a possibly problematic foster care system.

b. Turn CHINS into FINS

For many reformers, the concern is not the judge's role in the court, but the fact that the current statute is child-focused and not parent-focused. Parents are not legal parties to a CHINS action, nor do they have the right to a lawyer or to intervene in the case in any way.[78] Even if judges did have the power to order a child to do something, they would not have legal power over the parents -- even when many acknowledge that the problem often lies with the parents rather than the children. If the court wants authority over the parents, the court must file a petition for a care and protection case that may drag on for years with little immediate resolution. Judges just do not have the same effectiveness over a parent in a status offense proceeding as they would in a neglect proceeding, even though the issues may be identical. Moreover, "tactical and psychological factors may influence juvenile court personnel to proceed against a child as a [status offender], rather than against a parent for neglect."[79] For these reasons, others believe that the CHINS law is *too* parent-friendly; parents can just leave their child in the care of the court, without the hassle of a care and protection hearings. As one social worker noted, some parents just want to "get rid of their kids." Moreover, some parents may come to believe that the judge

[77] *Id.* For more information on Bridge over Troubled Waters, see http://www.volunteersolutions.org/boston/org/214738.html.
[78] *In re* Gail, 417 Mass. 321, 324-5 (1994).
[79] Rosenberg & Rosenberg, *supra* note 1, at 1111.

should act as a stand-in parent; as one commentator has noted, judges should not "become the authority" but rather "bolster [the parents'] authority."[80]

Other states, such as Florida, have changed their status offense jurisdiction to "Children and *Families* in Need of Services."[81] In that state, parents are legal parties, with a right to an attorney (including a state paid attorney, if the parents are indigent), and the court has the authority to mandate the participation and cooperation of the family, parent, guardian or custodian with court-ordered services, treatment, or community service.[82] For many, this is the ideal solution. Yet, others disagree. The possibility that parents would have to come to court and be subject to the authority of the judge may decrease the likelihood of parents requesting much-needed services for their children. Additionally, there is a general concern over parents' being in adversarial position against their children.

Still, the fact that judges now do not have authority over parents may lead them to remove a disproportionately high number of children from the home. Partly due to the limited funding of the Department of Social Services, the placements may not always be appropriate, or may be too intrusive for the child's problems.[83] According to the Vera Institute, which has done a comprehensive examination of status offenses, "faced with a recalcitrant or noncompliant adolescent, judges have few options but to take the child out of the home, even when he poses no threat to public safety. This can lead to further negative outcomes: exacerbated family tension, reduced engagement in school, and an increased likelihood of deeper involvement in criminal behavior."[84] For example, "[t]eens with a history of skipping school . . . attend classes even less

[80] *See* CHINS Panel, *supra* note 28.
[81] FLA. STAT. ANN. §984. For more information on how the statute works in practice for families, see http://www.floridanetwork.org/Frustrated%20Parents.htm.
[82] *Id.*
[83] CHINS Panel, *supra* note 28.
[84] Tina Chiu & Sara Mogulescu, Vera Institute of Justice, *Changing the Status Quo for Status Offenders* 6 (Dec. 2004).

frequently while they are living in a juvenile institution."[85] These out-of-home placements are also a huge financial burden on the state, and "since the length of a non-secure detention sty is usually guided by a court calendar, a child could spend weeks or even months in foster care or non-secure detention pending a court hearing or the judge's final decision."[86] More authority to order both parents *and* children to receive services or attend school could help alleviate the burden on DSS.

Of course, the possible implications of this change would have to be fully evaluated before implementing it wholeheartedly.[87] Yet, on the whole, the legislature must recognize that rarely does a CHINS problem lie with the child alone; often, families are part of both the problem *and* the solution. Families need services, too.

c. *Evaluate the Quality, Speed, and Consistency of Services*

Much of the rhetoric of CHINS reform revolves around "getting services" for children, as if "services" are the ultimate panacea for a CHINS youth. Yet, little mention is made of what these cure-all "services" entail. As one commentator wrote in the 1980s, "it is obvious that those who are most concerned about helping status offenders have neither fairly nor adequately evaluated the full range of services and programs that might prove beneficial."[88]

This statement is equally applicable twenty-four years later. A thorough evaluation of which services work, and which do not, needs to be evaluated before we can allow the ultimate goal of a CHINS statute to be "to get services" for needy children. The state should also evaluate

[85] *Id.* at 6.
[86] *Id.*
[87] The Children's League of Massachusetts recommends this approach, having done research and evaluation of similar systems in New York and Wisconsin. *See* Children's League of Massachusetts, *CHINS: A System in Need of Services*, http://www.mspcc.org/_uploads/documents/live/CHINS_A_System_in_Need_of_Services.pdf.
[88] JOHN. P. MURRAY, STATUS OFFENDERS: A SOURCEBOOK 38 (1982).

"model programs" from other states that have successfully intervened in many children's lives.[89] Additionally, given the small likelihood that funding will increase considerably, the effectiveness of current programs must be evaluated to determine where funding has the most impact. As one study has suggested, *under*-funding of services is not as much as a problem as *mis*-funding.[90]

Additionally, once the state knows which programs are effective, the state must work to provide these services as soon as possible for the families in need. Even when some families enter the system in a crisis situation, they are forced to wait months for help. As one panelist in a discussion of CHINS provocatively stated:

> We as adults, when we brought our child [to a hospital] for a broken leg or ruptured appendix [would not accept the response], "Gee, I'm sorry we can't treat [your child] for six months or three months." But we routinely tell families there is a three or six month waiting period for mental health services. The last time I looked the head was a part of the body. Let's treat it that way.[91]

Moreover, to achieve these effective and timely services, agencies must collaborate. For a child to successfully receive services, agencies must work together to meet the child's needs. One child, for example, may require the cooperation of the Department of Social Services, the Department of Mental Health, and a child's school. Although Massachusetts is known for agency collaboration,[92] there is a perception that agencies are quibbling over who has the responsibility to provide services. Judges can play a useful role here; even though a judge may not order a specific agency to do something, they can use the persuasive power of the bench to encourage

[89] See, for example, the positive changes implemented in New York regarding its Persons in Need of Services (PINS) statute. Eric Weingartner, Andrea Weitz, Ajay Khashu, Robert Hope & Megan Golden, Vera Institute of Justice, A *Study of the PINS System in New York City: Results and Implications*, http://www.vera.org/publication_pdf/159_243.pdf.
[90] BOSTON FOUNDATION COMMUNITY SAFETY INITIATIVE, 7, http://crjustice.org/cji/TBF3CHINS.pdf.
[91] *Id.* at 3.
[92] CHINS Panel, *supra* note 28.

agencies to collaborate.[93] Florida has taken another approach, and has resolved this problem in part by having all service agencies represented in one main, centrally located building; if a family is referred to a different service, they are just steps -- not miles and phone calls -- near the correct office.

Finally, judges must realize that the Department of Social Services is not always the answer for many of these youths, as even custody with the Department will not guarantee that services are provided. Indeed, "DSS has limited services and resources to offer. For older children, especially those close to [aging out of the system at] seventeen, it becomes very difficult to obtain services through DSS."[94] In a recent panel on CHINS reform, for example, a former CHINS youth was asked questions repeatedly about her experience in the system. Her complaints were directed largely to her traumatic (and as she termed it, "abusive") placements in the Department of Social Services, when she felt her only crime was to "light candles at home" and "come home at two in the morning."[95] For many youths, the Department of Social Services will only make matters worse; placed in a difficult and unfamiliar environment with other youths may even ignite the delinquent behavior the CHINS system tries to avoid.[96] Respite care, as described previously, may provide a viable alternative.

d. *Implement Wise Diversion Techniques Early*

To keep children from appearing in court unnecessarily, the state should employ a range of diversionary techniques to provide help and services without the need to go before a judge. Other states have had tremendous success with programs designed to keep status offenders out of court. New York, for example, has developed a successful initiative called the Family

[93] Judges cannot make a direct order to an agency because of the separation of powers, *Care and Protection of Isaac*, 419 Mass. 602 (1995), but they do have some influence over the agency's actions even without this power.
[94] REBECCA PRIES & CAROL ROSENWEIG, KIDS AND THE LAW 85 (1998).
[95] CHINS Panel, *supra* note 28.
[96] Chiu & Mogulescu, *supra* note 84.

Assessment Program (FAP).[97] Before a family can file a petition (known as Persons in Need of Services (PINS) in New York), an experienced social worker meets the family, does an intake interview with the parent and child individually, and then together.[98] In most cases, the family is provided aid immediately after this initial interview, which may include sending the family or child to health or medical services, referring a family to a state, private, or neighborhood service provider, scheduling a more extensive assessment, or, in the case of a runaway child, referring parents to probation to obtain a warrant.[99] Court involvement is the last resort.[100] When the Vera Institute of Justice evaluated FAP, it found that families were receiving more assistance more quickly than before the FAP program, probation intakes dropped by 80 percent, court referrals dropped by more than half and out of home placements were dramatically reduced.[101]

Nearly every county in Massachusetts currently has, or is developing, diversionary practices with the same goals -- or even procedures -- as the FAP program. These range from requiring at-risk children to meet with a "Diversion Team" consisting of social workers and parents before becoming formally involved in courts; having schools identify kids early to social workers and probation officers who visit the schools monthly; employing a CHINS liaison to work with schools and courts to divert services early; and requiring pre-CHINS meetings with social workers before a formal case can be filed.[102]

There is, however, little uniformity in diversionary programs across the state. Each county has been allowed to practice and test its own diversionary techniques, without any serious uniformity between the counties. As the Children's League of Massachusetts has noted, "The

[97] *See* Claire Shubik & Ajay Khashu, Vera Institute of Justice, *A Study of New York City's Family Assessment Program* 6 (Dec. 2005).
[98] *Id.* at 4-7.
[99] *Id.*
[100] *Id.*
[101] *Id.* at 2.
[102] These, and more, initiatives were recently discussed in an April 21, 2006 "CHINS best practices" meeting in the Massachusetts statehouse.

CHINS system is implemented inconsistently in the Commonwealth. Diversion programs have shown to be positive influences . . . [H]owever, the programs differ throughout the state. Most areas have no diversion programs at all. A new CHINS system must not only be accountable for its services but also consistent in its distribution."[103] Because there is a statewide Juvenile Court in Massachusetts now, administrative uniformity could be accomplished without the intervention of the legislature.

Yet the Massachusetts Juvenile Court must balance the equities when considering streamlining diversion programs between the counties. Allowing counties to develop their own techniques permits more experimentation, flexibility and creativity than statewide uniformity would allow. On the other hand, uniformity could implement beneficial services in all counties, not just those who have taken the initiative to develop these programs. Even if the Juvenile Court does not mandate complete uniformity, there should be a forum implemented for county leaders to share what programs worked, and perhaps more importantly, which ones did not; that way, each county would not have to use valuable resources and research to implement programs proven to fail but could implement beneficial practices using the "blueprints" of programs that worked in other counties.

Whether the Massachusetts Juvenile Court chooses to make county diversionary practices uniform or not, the state legislature should keep these diversion practices voluntary. Although mandating pre-CHINS meetings before filing would seem a wise requirement, a prerequisite may have a negative feedback that may prevent some children from getting help. Connecticut, for example, which is going through its own reform process, required a school

[103] Children's League of Massachusetts, *CHINS: A System In Need Of Services* (2005), *available at* http://www.mspcc.org/_uploads/documents/live/CHINS_A_System_in_Need_of_Services.pdf.

meeting to occur before a status offense truancy petition could be issued;[104] the number of petitions fell, but only because the schools were not having the meetings. The same problem might occur by requiring diversionary practices; if the position of a pre-CHINS coordinator has not been filled, for example, or the funding is lacking, a requirement may keep many children from receiving the help and care that they need for the system simply because of a burdensome prerequisite.

e. *Keep Up to Date Data on CHINS and Their Progress*

There is little data available concerning the fate of CHINS children, thus making it extremely difficult to determine what, if anything, is actually helping the children. Not only does there not appear to be adequate funding for the immense administrative task of tracking data, but many also feel that courts, probation and agencies jealously guard their data from inspection. This is unacceptable. As Citizens for Juvenile Justices notes, "only by factual knowledge, rather than undocumented evidence, can we hope to craft meaningful CHINS policy."[105]

This problem is not helped by the fact that few appeals are made from CHINS decisions, so that the current issues facing the system are not aired out in the statewide appellate courts. According to several lawyers working on behalf of children, CHINS cases are often not priorities for lawyers, possibly because the legal system has so little authority over the children. Because of this, many issues -- including allegedly wrongful removals from home and violations of due process norms -- are never closely scrutinized by any appeal. Yet, as Professor Rosenberg noted years ago, "Only by the emergence of an adversary system, in which charges are closely scrutinized, facts vigorously contested, all available defenses asserted, and appeals taken in large numbers, can appellate courts and legislatures be fully apprised of the endemic ills of [status

[104] CONN. GEN. STAT. ANN. §10-198a (2005).
[105] Citizens for Juvenile Justice, *supra* note 8, at 16.

offense] jurisdiction."[106] Appeals can also provide for much needed consistency between courts; as the situation stands now, "there is little guidance in interpreting CHINS law, and most courts and judges have their own ways of dealing with these cases."[107]

To amend this problem, updated, frequent and public data needs to be gathered in CHINS cases to ensure that the state is moving in the right direction, and to have some accountability for the actors in the system. Moreover, CHINS cases should not be treated as "second-class" by juvenile lawyers, with the importance of making appeals when rights may be violated emphasized to these lawyers.

IV. A More Dramatic Solution?

Although these proposed changes would have a considerable effect on the CHINS system, an even more dramatic solution to these problems in the Juvenile Court should be devised and implemented in the long run. It is widely known that children in need of services usually have more problems than just "stubbornness" -- as one commentator has noted, "hook a CHINS kid, and anything might come out."[108] Consider these statistics: 54 percent of the incoming Department of Youth Services population are "clients" of the Department of Social Services.[109] Moreover, children who are abused or neglected are 1.8 times more likely to be arrested as juveniles, and 1.5 times more likely to be arrested as adults than kids who are not abused or neglected.[110]

Although complete reform of the juvenile justice system is beyond the scope of this paper, the legislature should think very hard about how meaningful the disparities are between different juvenile court proceedings. In a juvenile delinquency proceeding, for example, it is

[106] Rosenberg & Rosenberg, *supra* note 1, at 1130.
[107] PRIES & ROSENWEIG, *supra* note 94, at 89.
[108] CHINS Panel, *supra* note 28.
[109] Citizens for Juvenile Justice, *DSS: Gateway to Juvenile Crime* 3 (2000), http://www.cfjj.org/Pdf/DSS.pdf.
[110] *Id.*

illogical that a judge should have to ask a parent to issue a CHINS petition on a child to allow her to receive services from DSS rather than DYS, as happens now. Nor does it make sense in a CHINS proceeding for a court to lack the ability look closely into the family situation when a child is running away. Likewise, care and protection cases focus legally on the parents alone, and do not give the same consideration to the child's situation.

Despite the dramatically different nature of these proceedings, the populations for all of these proceedings are often the same, as the statistics demonstrate. Indeed, these problems and issues should be treated holistically; each proceeding should not be hermetically sealed from the others. For those youths simply needing "services," CHINS may be an excellent means of proceeding. But truant youths entangled in delinquency proceedings with abusive and neglectful parents may need a more coherent approach than three different proceedings for what really is one problem. It is unclear what this holistic proceeding would look like, but an approach that looks at all angles of a youth's life is more likely to be effective in the long run. Massachusetts was the first state to craft a status offense statute, and the first state to lead the nation away from deinstitutionalization; the state may again be up for the challenge of innovation in the juvenile court today.

V. Conclusion

For many, the high numbers of CHINS youths who enter the juvenile or criminal justice system demonstrates that the CHINS system is not doing its job of preventing future delinquencies and involvement in the courts. Although these figures are disheartening, they do not tell the entire story. Many of the CHINS youth were involved in criminal activity before the issuance of a CHINS,[111] and the services would likely have to effect a complete restructuring of

[111] Citizens for Juvenile Justice, *supra* note 8, at 3 (noting that twenty-three percent of CHINS youth had been arraigned in juvenile court prior to their CHINS petition).

societal norms, economic distribution and racial barriers in order to "save" many kids from future criminal behavior.[112] Despite these barriers, with the right reforms, CHINS can still fulfill its ultimate goal "to insure the rights of any child to sound health and normal physical, mental, spiritual and moral development."[113]

The reforms proposed here are far from complete, yet together, they may help cure some of the ills that ail CHINS and its constituents. The Massachusetts legislature must work with every member of the CHINS system -- including the children and families they purport to protect -- to make sure that a reform statute is drafted and implemented effectively and efficiently. The legislature has long stalled on the issue; even after years of being urged by judges, lawyers, social workers and probation officers, it has consistently ducked responsibility for the problems with the statute.[114] With increased attention on this matter in the legislature, and a Senate committee dedicated to reform, however, the legislature can hopefully implement real change. "Troublesome and irreverent children will always be with us,"[115] yet CHINS reform can help us care for them better in the future than we do now.

[112] Indeed, as one commentator has noted "The fact that status offenders return to the courts or other agencies on several occasions should come as no surprise. These are troubled youths, with troubled families, living in troubled circumstances." MURRAY, *supra* note 88, at 37.
[113] MASS. ANN. LAWS. ch. 119, § 1 (2005).
[114] *See, e.g.*, Citizens for Juvenile Justice, *supra* note 8.
[115] MURRAY, *supra* note 88, at 60.