

1 SECTION 1. The General Laws as appearing in the 2006 official edition are hereby amended by
2 adding after chapter 6A section 16G the following new section:

3 Section 16H. Community-based services for families and children

4 1. *Whereas* families in the Commonwealth whose children are truant, runaway and act in a
5 fashion that interferes with their parent's ability to adequately care for and protect said children,
6 often require the assistance of government agencies, including schools, human services agencies
7 and the courts, as well as non-governmental service providers; and

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8 *Whereas* the issues facing said children and families are complex and the services which would
9 best assist such families are not always available from a single agency or department of the
10 Commonwealth; and

11 Whereas, the collaboration among multiple public and private agencies and offices is required to
12 ensure that all children and families receive the services they need to succeed; and

13 *Whereas* the current efforts to help said children and families lack accountability and
14 consistency; and

15 *Whereas* services are not consistently available in all communities;

16 *Therefore*, it shall be the policy of the Commonwealth to develop a flexible, consistent, and
17 accountable system of community-based programs to assist said children and families.

18 2. It is the intent of the General Court to create an accountable, community-based system that
19 provides consistent services throughout the Commonwealth to address the needs of families and

20 children requiring assistance. The goal of said system is to preserve and strengthen families

Deleted: in crisis by providing them with an array of resources

21 while ensuring the healthy behavioral, social and educational development of the child, and to

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22 provide opportunities to divert children from the juvenile justice and child protection systems.

27 These services shall focus on supporting a stable environment and strengthening the family as a
28 whole while emphasizing parental responsibility. Nothing in this act is intended to abrogate the
29 responsibility of the education system to provide educational services as required by state and
30 federal law. Subject to appropriation, said community-based system shall consist of a network of
31 public and private providers that will provide service coordination, referrals and services in the
32 community. It is further the intent of the General Court to establish and fund a mechanism for the
33 collection and analysis of information which will enable the Commonwealth to evaluate the
34 effectiveness of services and to identify gaps in services. ▼

35 SECTION 2.

36 The General Laws as appearing in the 2008 official edition are hereby amended by adding after ←
37 chapter 6A section 16G the following new section: Section 16H. Community-based services for
38 families and children

39 Section 16H. (a) For the purpose of this Section the following words shall have the following
40 meanings:

41 ▼
42 ‘Child requiring assistance’: a child between the ages of 6 and 18 who repeatedly runs away
43 from the home of his parents or legal guardian or repeatedly fails to obey the lawful and
44 reasonable commands of his parents or legal guardian, thereby interfering with said parent’s or
45 legal guardian’s ability to adequately care for and protect said child or repeatedly fails to obey
46 the lawful and reasonable regulations of his school or who is habitually truant;

47 “Community based services”: services, including coordination of services, that are designed to
48 assist families with children requiring assistance so that, where appropriate such children will be

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Said

Deleted: provide the family and child with immediate responses for the stabilization of the family, as well as to connect the family to additional services in the community through referrals and advocacy. The services provided to the families and children involved shall be provided on a continuum of increasing intensity with the goal of keeping the child out of the juvenile justice and child protection systems. It is further the intent of the General Court

Deleted: The system shall include

Deleted: It is the intent of the General Court to reserve judicial intervention for those children and families who require services beyond said community-based services in order to achieve stabilization and resolution....

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Deleted: 3. For the purpose of this Section the following words shall have the following meanings:⁴

66 able: to continue residing with their families in their home communities; to continue as students
67 in their community schools, and to strengthen relationships with their families.▼

68 ▼
69 ‘Habitually truant’: a school-aged child not otherwise excused from attendance in accordance
70 with the lawful and reasonable regulations of his school who fails to attend school for more than
71 8 school days in a quarter;

72 ‘Secretary’: the secretary of the Executive Office of Health and Human Services.

73 ▼(b) Subject to appropriation or availability of third party reimbursement, the secretary shall

74 (1) establish a network of child and family service programs throughout the
75 Commonwealth to provide community-based services to families with children requiring
76 assistance.▼

77 (2) develop a model for delivery of community-based services to families with children
78 requiring assistance which shall form the basis of the network of child and family service
79 programs developed pursuant to Section (b).

80 (3) make grants for service coordination which may include outreach, intake, screening,
81 assessment and referral. Referral may be provided for services, including but not limited
82 to: eligibility, behavioral health, medical, counseling, safety, education, learning
83 disabilities, employment, mentoring, family and parent support, civic engagement and
84 community service, after school and out-of-school opportunities, residential programs,
85 non-residential programs, crisis management, and case management.

Deleted: “Community Service Agency”: a community-based organization providing services under contract with the Commonwealth, whose function is to facilitate access to and ensure coordination of services for families with children with serious emotional disturbance who require or are already utilizing multiple services, or are involved with multiple child-serving systems including, but not limited to, the juvenile justice system, department of mental health, and special education, as agreed upon under the settlement dated August 29, 2006 entered into by the parties of Rosie D. et al v. Romney civil action No. 01-30199-MAP filed in the United States District Court.

Deleted: ‘Family with children requiring assistance’: the parents, guardians, siblings, and any other relatives or caretakers responsible for a child between the ages of 6 and 18 who need assistance from state, local, or private agencies, or providers of social, educational health, mental health, or behavioral health services in order to adequately care for and protect the child;...

Deleted: between the ages of 6 and 18

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Deleted: , in consultation with the commissioners of the departments of children and families, youth services, mental health, and public health

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Deleted: all children and

Deleted: who are at risk of contact with the juvenile justice system or the child protection system, families with children requiring assistance, and children who require assistance. ¶

(4) create a data collection system for use by programs within the network of child and families service programs developed pursuant to Section (b) which maintains the privacy of clients served, assists programs and the executive office of health and human services in addressing the needs of the population to be served, collects information related to, among other things, the insurance status and benefit coverage of clients served, income documentation as needed to apply a sliding fee scale for payment or waiver of payment for services, and other information that may assist the program and the secretary in providing services, identifying service needs and gaps, and evaluating the effectiveness of community-based services.

(vi).

(c) Participation in community-based services shall be pursuant to a voluntary agreement of the parent or legal guardian and the child. Families or children may terminate their involvement at any time.

(d) Any documentation of community based services provided to the family and child shall not be public record. Statements made by the family and child while receiving services from the program shall be treated as confidential. Such statements may not be used in school disciplinary proceedings or in any court proceeding without the written consent of the person making the statement.

(e) Any person offering community-based services to children under this program shall be required to report suspected physical or emotional abuse or neglect of a child pursuant to General Laws Chapter 119 Section 51A.

(f) Notwithstanding any provision to the contrary, in the absence of specific written

Deleted: The secretary may enter into contracts with the Community Service Agencies (CSAs), local schools, other local public agencies, private organizations, or medical or mental health care providers who shall act as Community-Based Service Centers, to implement the program and provide services which are within their capacity. In awarding the contracts the secretary shall seek to promote efficiency and access to existing services. The Community-Based Service Centers shall be encouraged to subcontract with other local providers as needed to provide the full complement of services required under paragraph 8 of this section. (b) The purpose of the community-based services program shall be to assist families so that children will be able to continue residing with their families in their home communities; assist families to enable children to continue as students in their community schools; strengthen the relationships between children and families; and provide coordinated, comprehensive, community-based services for children at risk of dropping out of school delinquency, or engaging in behaviors which impede the likelihood of their leading healthy, productive lives.¶

(c) The secretary shall:→→→→→¶
(i) design models for delivery of community-based services by community-based organizations and collaborations of public and private organizations; ¶
(ii) pilot alternative systems to address the problem of children running away from their parents or legal guardians; ¶
(iii) develop standards necessary to achieve and maintain on a statewide basis comprehensive and integrated community-based services for children and families; ¶
(iv) monitor and provide technical assistance to providers of community-based services; ¶
(v) adopt a standard intake screening and assessment tool to evaluate all families and children seeking community-based services which identifies the family's strengths, resources, and service needs such as mental health, behavioral health, or substance abuse treatment, basic family shelter, clothing and food needs, child care needs, health insurance status, legal issues, education placement, and child protection;¶

Deleted: create a data collection system for use by programs which maintains the privacy of clients served, assists programs and the executive office of health and human services in addressing the needs of the population to be served, collects information related to, among other things, the insurance status and benefit coverage of clients served, income documentation as needed to apply a sliding fee scale for payment or waiver of payment for services, and other information that may assist the program and the secretary in providing services, identifying service needs and gaps, and evaluating the effectiveness of community-based services.¶

5. (a) Subject to appropriation, the secretary shall make grants for the purpose of planning, establishing, operating, coordinating, and evaluating Community Based Service Centers. At least one grant shall be awarded for the operation of a community-based services program in each of the department of children and families' ... [1]

Deleted: 5. (a) Subject to appropriation, the secretary shall make the purpose of planning, establishing, operating, coordinating, and evaluating Community Based Service Centers. At least one grant shall be awarded for the operation of a community-based services program in each of the department of children and families' service areas. Additionally, two grants shall be awarded for runaway treatment and prevention programs, one in an urban location and one in a rural location. Grants may award funding for up to five years subject to demonstration of effectiveness and the submission ... [2]

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370 directive from the child and or member of the family who is receiving service,
371 information about the case, including interactions with service providers and protected
372 health information services, may be shared among members of the case team as
373 needed to coordinate treatment and provide appropriate case management. SECTION 3:
374 Section 16H(b)(1) shall take effect 36 months after the effective date of this legislation, to enable
375 the Secretary to engage in the planning process required to establish the service delivery network
376 provided therein.
377 SECTION 4: Section 16H(b)(2) shall take effect 12 months after the effective date of this
378 legislation.
379 SECTION 5: Section 16H(b)(3) shall take effect 24 months after the effective date of this
380 legislation.
381 SECTION 6: Section 16H(4) shall take effect 24 months after the effective date of this
382 legislation.
383 SECTION 7: Chapter 119 of the General Laws as appearing in the 2008 Official Edition, is
384 hereby amended by striking lines 8 to 16 and inserting in place thereof the following:
385 SECTION 8. Section 21 of Chapter 119 is further amended by adding after the definition of Department
386 the following definitions:
387 “Child requiring assistance”, a child below the age of eighteen who repeatedly runs away from
388 the home of his parents or legal guardian, or repeatedly fails to obey the lawful and reasonable
389 commands of his parents or legal guardian, thereby interfering with said parent’s or legal
390 guardian’s ability to adequately care for and protect said child, or repeatedly fails to obey the
391 lawful and reasonable regulations of his school, or who is a habitually truant;

Moved up [1]: The report and any documentation of services provided to the family and child shall not be public records. Statements made by the family and child while receiving services from the program shall be treated as confidential. Such statements may not be used in school disciplinary proceedings or in any court proceeding without the written consent of the person making the statement.

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(b) Services may be provided for 120 days. After the initial 120 day period families or children and the community-based services program case manager may agree to extend services for up to an additional 90 days.

(c) Covered services shall be billed to the insurance provider for the client.

(d) The program shall advise the parents or legal guardian that they may be responsible for co-payments for covered services and for contributing to the cost of non-covered services for the child or family. Allowable rates for services not covered by insurance, including the portion for which parents will be held responsible, shall be set by the secretary and periodically adjusted as needed to meet actual costs.

(e) In the absence of the consent of a parent or legal guardian, respite care may be provided to a child pursuant to the provisions and subject to the limitations of chapter 119 section 23 paragraph 7.

10. (a) Each family shall have a case manager who shall be responsible for working with the family to develop a crisis stabilization plan where warranted and a family service plan; coordinating services; assisting the family to resolve administrative issues including issues with insurance coverage, interagency issues and other issues which serve as barriers to successful implementation of the service plan; facilitating communication between providers as authorized by the child or their parent or legal guardian; implementing resolution processes when necessary; and working with the case staffing team to create an after care plan.

(b) The composition of the case staffing team shall be based on the needs of the family and child and be chosen after consultation with the child and their parent or legal guardian. It shall include the case manager, the primary providers of services to the child and family, a representative from the child's school district. The case staffing team may also include other individuals with professional expertise in health care, mental health care, behavioral health care, substance abuse, social or educational services, or other persons recommended by the child, parent or legal guardian, or case manager.

(c) The service engagement team shall be comprised of the Director of the Community-Based Service Center or their designee, members of the local advisory board and other professionals who are charged with developing engagement strategies for the Center and, at the request of the child, parent or guardian, or the case manager, addressing barriers to the initial engagement of individual children and their families.

(d) The case manager shall, in consultation with the family, develop a family service plan which shall be provided to the child and their parent or legal guardian and other family members requiring

Deleted: SECTION 2: Chapter 69 of the General Laws is hereby amended by adding after section 1N the following new section:
Section 1O. Within three years of the effective date of this act, the department shall establish a discretionary grant program to assist schools in planning and implementing truancy prevention programs which meet the certification requirements established pursuant to section 1P of Chapter 69.

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Deleted: repealing Sections 39E to 39J, inclusive, and adding the following new sections:

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563 ‘Family requiring assistance’, the parents, guardians, siblings and any other relatives or
564 caretakers responsible for a child between the ages of 6 and 18 who need assistance from state,
565 local, or private agencies or providers of social, educational, health, mental health, or behavioral
566 health services in order to adequately care for and protect the child;

567 “Habitual truant”, a school-aged child, ~~not otherwise excused from attendance in accordance~~
568 with the lawful and reasonable regulations of his school, who willfully fails to attend school for
569 more than 8 school days in a quarter;

Deleted: between the ages of 6 and 18

570 “Parent”, includes a legal guardian or other person legally responsible for a child’s care.

571 SECTION 9: Chapter 119 of the General Laws is hereby amended by repealing Sections 39E to
572 39J, inclusive, and adding the following new sections:

573 Section 39E, Jurisdiction

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574 The Juvenile court department has original and exclusive jurisdiction over any proceeding
575 commenced under section 39N alleging that a family or child requires assistance. The
576 jurisdiction of the Boston juvenile court for the subject matter of this section shall extend to the
577 territorial limits of Suffolk county.

578 Section 39M. Nature of the Proceedings

579 1. Proceedings pursuant to sections 39E to 39Q, inclusive, shall not be deemed criminal
580 proceedings and any record of these proceedings, including the filing of a request for
581 assistance and creation of a docket, shall not be entered in the Criminal Offender Record
582 Information System.

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2. Proceedings pursuant to sections 39E to 39Q, inclusive, shall be confidential and not be open to the public.

3. For the purpose of section 39E to 39Q “parent” shall include a legal guardian with custody or legal custodian of a child.

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Section 39G, Request for Assistance

1. A proceeding to determine whether or not a child or family requires assistance is originated by the filing of a request for assistance, stating the petitioner’s information and belief:

Deleted: 2. Notwithstanding any general or special law to the contrary, no record pertaining to the child involved in the proceedings shall be maintained or remain active after the request for assistance is dismissed. The identity and record of any child for which a request for assistance is filed shall not be submitted to the criminal history systems board, criminal offender record information system, court activity record index or any other criminal record information system. 3. Proceedings pursuant to sections 39K to 39X, inclusive, shall be confidential and not be open to the public. ¶

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(a) that the child repeatedly runs away from the home of his parents or legal guardian or repeatedly fails to obey the lawful and reasonable commands of his parents thereby resulting in said parent’s inability to adequately care for and protect said child, or that the child is habitually truant or repeatedly fails to obey the lawful and reasonable regulations of his school;

(b) that the child was under the age of 18 at the time the specified acts took place,

(c) specific acts on which the request for assistance is based and the time and place they are believed to have occurred;

(d) when the petitioner is a school district, the request for assistance shall also include:

(i) if the request for assistance states that a child is habitually truant, a statement of the actions taken by the school district to improved the school attendance of the child. The request for assistance shall also

Deleted: to comply with its obligations under its truancy prevention program certified pursuant to chapter 69, section 10 and to improve the school attendance of the child. The request for assistance shall also state whether or

623 state whether or not the child and his family have participated in the
624 truancy prevention program.; and

625 (ii) whether the family was informed of and referred to a community based
626 services program provided under Section 16H of chapter 6A.

627 (e) that the child and family require assistance.

628 (f) when the petitioner is a parent or guardian, whether they have applied for or received services
629 from a community based services program provided under Section 16H of chapter 6A

630 2. The following persons may originate a proceeding under this section:

631 (a) a police officer, but only if the request states that the child repeatedly runs away from
632 the home of his parents or legal guardian;

633 (b) a parent;

634 (c) a school district, but only if the request states that the child is habitually truant or
635 repeatedly fails to obey the lawful and reasonable regulations of his school;

636 3. Upon filing of a request for assistance, the clerk of the court shall provide the parent identifies
637 in the request for assistance information about the community based services program provided
638 under Section 16H of chapter 6A or may refer the parent to a community based services program
639 provided under section 16H of chapter 6A in the community where the child resides.

640 Section 39H Notice

Deleted: if the request for assistance states that a child has repeatedly failed to obey the lawful and reasonable regulations of the school, a statement of the specific steps taken by the school to improve the child's conduct.

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Deleted: (a) The petitioner shall attach to the request for assistance the notice of conclusion of community-based services as provided for in chapter 6A, section 16H(1)(b) or notice of ineligibility as provided for in chapter 6A, section 16H(e). Except as provided in paragraph (b), the clerk shall not accept for filing any request for assistance that does not have attached thereto said notice of conclusion or ineligibility and a person or agency seeking to file a request for assistance pursuant to this section which does not have attached thereto the notice of conclusion of community-based services shall be referred by the clerk of the court to a program designated by the secretary of the executive office of health and human services to provide community-based services in the juvenile court district where the child resides. If the clerk accepts the request for assistance then the clerk shall create a docket for the matter, and request that the chief probation officer or his designee, conduct an immediate inquiry in order to recommend to the court whether or not there is probable cause for a determination that a child and family are in need of assistance and whether it is in the best interest of the child for the matter to proceed to a fact finding hearing. (b) If the petitioner is a police officer, the clerk may accept a written statement of the reasons for the officer's belief that the referral to community-based services prior to filing the request for assistance would present a risk of harm to the child or others in lieu of the notice of conclusion or ineligibility. The clerk shall then i) immediately contact the designated community-based services to provide notice that a request for assistance has been filed, ii) create a docket for the matter and iii) request that the chief probation officer, or his designee, conduct an immediate inquiry and report to the clerk, or a judge if the clerk is not available with advice on how to proceed to obtain assistance for the child. If the petitioner is a parent, then the clerk may accept a statement of the parents' reasons for the parents' belief that referral to community based services prior to filing the request for assistance would present a risk of significant harm to the child, family or community. The clerk shall then immediately review the request for assistance and if the clerk finds that a referral of the family and child to community based services is likely to result in said harm, then the clerk shall create a docket for the matter and request that the chief probation officer or his designee, conduct an immediate inquiry and report to the clerk, or a judge if the clerk is not available with advice on how to proceed to obtain assistance for the child.

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688 1. Except as provided in subsection 2, on the filing of a request for assistance pursuant to this
689 section, the court shall cause a copy of the request for assistance and a summons to be issued,
690 requiring the child and each parent to appear at the court at a time and place named to address
691 the request for assistance

692 2. In proceedings commenced by a parent the court shall at the time the request is filed to notify
693 the parent in writing of the time and place that the request for assistance will be heard to ensure
694 the parent has a copy of the request for assistance. The court is not required to issue a summons
695 to either parent in such a case if the parents are living together. If the parents are not living
696 together, the court shall cause a copy of the request for assistance and a summons to be issued,
697 requiring the child and the parent who did not initiate the request for assistance to appear to
698 address the request for assistance at the court at a time and place named..

699 3. A copy of the request for assistance served or provided under subsection 1 or 2 shall be
700 accompanied by a notice that, in the event that the court deems it necessary to place the child in
701 the care and custody of the department of children and families, said parent may be named as a
702 respondent in any child support proceeding brought in connection with the child's care

703 4. Unless service of the summons required by this section is waived in writing, such summons
704 shall be served by a constable or police officer, either by delivering it personally to the person to
705 whom addressed, or by leaving it with a person of proper age to receive the same, at the place of
706 residence or business of such person, and said constable or police officer shall immediately make
707 return to the court of the time and manner of service.

Deleted: cause a copy of the request for assistance and notice of the time and place to be heard to be provided to that person when the request is filed. The court is not required to issue a summons to

711 Section 39O ½ Determination of probable cause that a child and family requires assistance;
712 expungement.

713 Whenever a request for assistance is filed, the clerk, or a judge if the clerk is not available, shall
714 hold a hearing as soon as possible, but not later than 15 days after the creation of a docket. At
715 that hearing the clerk or a judge if the clerk is not available, shall receive the recommendation of
716 the probation officer and receive evidence from the petitioner and the child. The clerk, or the
717 judge shall determine i) whether or not there is probable cause for a determination that a child
718 and family are in need of assistance and ii) whether it is in the best interest of the child for the
719 matter to proceed to a fact finding hearing. The clerk or judge shall then either i) dismiss the
720 request for assistance, or ii) refer the child and family to a probation officer for the preliminary
721 inquiry under section 39R. When a request for assistance is dismissed under this section, the
722 court shall enter an order directing the expungement of any records of the claimant maintained
723 by the clerk, the court, the criminal history systems board, and the probation department that
724 directly pertain to the this request for assistance.

725

726 Section 39P Scheduling the Fact Finding Hearing

727 At the conclusion of the probable cause hearing required by section 39O1/2, the clerk shall set a
728 date for a fact finding hearing no more than 90 days from the date the request for assistance was
729 filed. If at any time prior to the fact finding hearing the parents, child, petitioner and probation
730 officer agree, the fact finding hearing may be postponed for an additional 90 days after the
731 expiration of the initial 90 day period.

732 Section 39Q Appointment of Counsel

733 1. When the request for assistance is filed the child shall be informed that he has a right to
734 counsel at all hearings, and if said child is not able to retain counsel, the court shall appoint
735 counsel for said child. The court shall appoint counsel for the child when the request for
736 assistance is filed. The clerk shall cause a copy of the request for assistance and notice of the
737 time and place of the fact finding hearing to be delivered to counsel at the time of appointment.

738 2. When the request for assistance is filed, each parent of the child shall be informed that he has
739 the right to participate as a party in any proceeding under sections 39K to 39X involving his
740 child and that he has the right to counsel at any hearing or proceeding regarding custody of his
741 child. If said parent is financially unable to retain counsel, the court shall appoint counsel for said
742 parent or legal guardian.

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743 3. The court shall determine whether the parent or legal guardian of a child alleged to require
744 assistance is indigent. If the court determines that the parent or legal guardian is not indigent, the
745 court shall assess a \$300 fee against the parent or legal guardian to pay for the cost of counsel
746 appointed for the child. If the parent or legal guardian is determined to be indigent but is still
747 able to contribute toward the payment of some of said costs, the court shall order the parent or
748 legal guardian to pay a reasonable amount toward the cost of counsel appointed for the child.

749 Section 39R Preliminary Inquiry by Probation

750 1. The chief probation officer or his designee shall conduct a preliminary inquiry to determine
751 whether in his opinion the best interests of the child and family require that crisis intervention
752 services be provided to the child and family.

755 The probation officer in his discretion may:

756 (a) refer the family and child to a community based services program in the community
757 where the child resides; the probation officer may confer with the provider of
758 community-based services to resolve the situation which formed the basis of the request
759 for assistance;

760 (b) refer the child to an appropriate public or private organization or person for
761 psychiatric, psychological, educational, occupational, medical, dental or social services;

762 (c) conduct conferences with the child, the child's family and the petitioner for the
763 purpose of effecting adjustments or agreements which are calculated to resolve the
764 situation which formed the basis of the request for assistance. Information obtained by
765 the probation officer may be used in the present proceeding but it is otherwise
766 confidential and may not be used in school disciplinary proceedings or other court
767 proceedings;

768 (d) if the child or his parents fail to participate in good faith with the referrals or
769 conferences arranged by the probation officer or if the probation officer is not able to
770 refer the child or his parents to an appropriate community based services program or
771 public or private organization which is willing and able to provide appropriate services,
772 the probation officer shall so certify in writing and present these findings to the court.

773 2. (a) The probation officer shall gather information concerning the child and family which in
774 both substance and format is compatible with and complementary to the information gathered by
775 programs providing community-based services pursuant to section 16H of chapter 6A, including

Deleted: the program designated to provide community-based services for this juvenile court division...

778 but not limited to the insurance status and coverage and other information that may assist the
779 Commissioner of Probation and the court in evaluation the availability and effectiveness of
780 services for children who are the subjects of requests for assistance pursuant to this section.

781 (b) The Commissioner of Probation shall report annually to the legislature and the Child
782 Advocate on the assistance provided by probation officers to children and families under
783 Sections 39K to 39X. The report shall be filed on October 1 of each year and shall include for
784 each juvenile court district: the number of children and families receiving assistance, their racial
785 and ethnic identity, as identified by the child and family members, an analysis of the services
786 provided and an identification of gaps in services available, the status or resolution of each
787 request for assistance filed in the previous year, and the numbers of children who are the subject
788 of a request for assistance and also charged with a delinquency matter in the previous year. The
789 report shall exclude information that identifies or allows others to identify any child or family
790 who is the subject of a request for assistance.

791 3. Conferences and referrals arranged under this section may extend for a period not to exceed
792 120 days from the date that the request for assistance was filed, unless the parent, child and
793 petitioner voluntarily agree in writing to a continuation of such conferences or referrals for an
794 additional period not to exceed 90 days from the expiration of the original period. Upon the
795 expiration of the initial 90 day period, or of such additional 90 day period, the request for
796 assistance may be dismissed and the child and his parents discharged from any further obligation
797 to participate in such conferences and referrals, or a fact finding hearing shall be held.

798 Section 39S Custody, Failure to Appear

Deleted: (b) The commissioner of probation shall establish a system to collect data regarding requests for assistance made and how they are resolved under sections 39K through 39X. Said system shall maintain the privacy of clients served, assist the court in addressing the needs of the population to be served, collect information related to, among other things the racial and ethnic identity of the child, the insurance status and coverage of clients served, the length of time a child is receiving assistance from a probation officer, the identity of any public or private organization to whom a probation officer has referred a child or family for services; and other information that may assist the commissioner and the court in evaluating the availability and effectiveness of services for children who are the subjects of requests for assistance pursuant to this section.

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815 If, after a hearing at which the child is represented by counsel, the court finds that a child alleged
816 to require assistance by reason of repeatedly failing to obey the lawful and reasonable commands
817 of his parent is likely not to appear at the fact finding hearing or at the disposition hearing, the
818 court may order the child to be released upon such terms and conditions as it determines to be
819 reasonable or may place the child in the temporary custody of the Department of Children and
820 Families. Prior to the court granting custody to the Department of Children and Families, the
821 court must make a written certification and determination that it is contrary to the welfare of the
822 child to be in his home, and that the Department of Children and Families has made reasonable
823 efforts to prevent removal of the child from his home or the existing circumstances indicate that
824 there is an immediate risk of harm or neglect which precludes the provision of preventative
825 services as an alternative to removal.

826 An order placing a child with the department under this Section shall be valid for no more than
827 15 days without the child being brought again before the court for a hearing on whether the order
828 should be continued for another 15 day period. If the court decides to extend the order, it shall
829 note in writing the detailed reasons for its decision. An order under this section may be in effect
830 for no more than 45 days total.

831 A child who is the subject of a request for assistance may not be confined in shackles or similar
832 restraints or in a court lockup facility in connection with any proceedings pursuant to Sections
833 39K through 39X.

834 Section 39T Withdrawal of Request for Assistance

835 The petitioners may, withdraw the request for assistance at any time prior to a hearing to
836 determine the disposition of a request for assistance. A probation officer may at any time
837 recommend to the court that the request for assistance be dismissed upon a showing that
838 dismissal is in the best interests of the child.

839 Section 39U Fact Finding Hearing

840 1. The court shall hold a fact finding hearing in which it shall receive evidence from the
841 petitioner, the parent, the child, ~~the community-based services program if involved with the~~
842 ~~family,~~ and the probation officer. At any hearing held to determine whether a child ~~requires~~
843 assistance, the child and his attorney shall be present and the parents or legal guardian shall be
844 given an opportunity to be heard. The petitioner who files the request for assistance shall bear the
845 burden of presenting evidence proving that the child ~~requires~~ assistance

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846 2. At the fact finding hearing the court shall ~~consider any available documentation of diligent~~
847 attempts to provide appropriate services and determine whether such efforts or services provided
848 were sufficient. With the consent of the parent(s) and child the court may consider any written
849 reports from service providers which would otherwise be subject to confidentiality or privilege.

Deleted: review any notice of termination of community-based services. The court shall ...

850 The court may refer the child and the parent to participate in community-based services ~~program~~
851 ~~established under section 16H of chapter 6~~ regardless of whether or not the child and parents
852 have previously used community based services on a voluntary basis.

Deleted: or other person legally responsible for the child

853 3. The court shall either:

(i) dismiss the request for assistance because the circumstances which led to the filing of a request for assistance have been resolved or the court finds that the child and family will not benefit from the assistance being offered;

(ii) adjourn the hearing for up to 60 days because it finds that the interests of the child would best be served by continued informal assistance, in which case the court shall, with the consent of the child and his parent, refer the child to a probation officer or refer the child and family to the designated program for additional community-based assistance; or

(iii) If the court finds the allegations in the petition have been proved at the hearing beyond a reasonable doubt, it may adjudge the child named in the petition to be a child requiring assistance and schedule a hearing for disposition.

Deleted: the request for assistance have been proved at the fact finding hearing beyond a reasonable doubt, it may find that the child and family named in such request for assistance to be a child and family requiring assistance and schedule a hearing for disposition

4. No statements made by a child, family member, or by any other person during the period of inquiries, conferences, or referrals may be admitted at any hearing without the consent of the child or the family member who made the statement.,

Section 39V Disposition Conference and Hearing

1. Upon making a finding that a child and family require assistance at a fact finding hearing , the court shall convene a conference of the probation officer who conducted the preliminary inquiry, a representative from the community-based services program, if involved with the family, the petitioner, a representative from the child's school, the child's parent and his attorney, the child and his attorney, a representative of the department of children and families, if involved with the

Deleted: the case manager, if any, from the community-based services program,...

888 family, and any other person who may be helpful in determining the assistance to be offered to
889 the child and family. Notwithstanding any privilege create by statute or common law relating to
890 confidential communications or any statute prohibiting the disclosure of information, the
891 persons at the meeting shall present a written report, to the court to advise the court on
892 appropriate treatment and services for the child and family and appropriate placement for the
893 child and appropriate conditions and limitations of such placement. The court, taking into
894 consideration the those reports, and the physical and emotional welfare of the child, may make
895 any of the following orders of disposition:

896 (a) subject to any conditions and limitations the court may order, including provision for
897 medical, psychological, psychiatric, educational, occupational and social services, and for
898 supervision by a court clinic or by any public or private organization providing
899 counseling or guidance and for any other services deemed appropriate by the court,
900 permit the child to remain with his parents;

901 (b) subject to such conditions and limitations as the court may prescribe, including, but
902 not limited to provisions for services deemed appropriate by the court, including but not
903 limited to services described in clause (a), place the child in the care of any of the
904 following:

905 (i) a relative, or other adult individual who, after inquiry by the probation officer
906 or other person or agency designated by the court, is found to be qualified to
907 receive and care for the child;

Deleted: The probation officer shall present written recommendations and other the

Deleted: may present written recommendations

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At the conference and subsequent hearing on disposition, the child and his attorney shall be present and the parents or legal guardian and the petitioner shall be given an opportunity to be heard. The court may receive evidence as to the best disposition from all persons who participated in the conference.¶
2. The court shall then conduct a dispositional hearing.

Deleted: the evidence admitted at the hearing, the report of the probation officer, ...

Deleted: prescribe

(ii) a private charitable or childcare agency or other private organization, licensed or otherwise authorized by law to receive and provide care for such children; or

(iii) a private organization which, after inquiry by the probation officer or other person or agency designated by the court, is found to be qualified to receive and care for the child.

(c) subject to the provisions of sections 32 and 33 and with such conditions and limitations as the court may recommend, place the child in the custody of the department of children and families. Prior to the court granting custody to the Department of Children and Families, the court must make a written certification and determination that it is contrary to the welfare of the child to be in his home, and that the Department of Children and Families has made reasonable efforts to prevent removal of the child from his home or the existing circumstances indicate that there is an immediate risk of harm or neglect which precludes the provision of preventative services as an alternative to removal.

When the court has placed a child in the custody of the department, then the department:

- (i) may not refuse out-of-home placement when requested by the child if there is a substantiated history of abuse and neglect in the home of the parent or legal guardian;
- (ii) shall direct the type and length of any out-of-home placement;
- (iii) shall give due consideration to the recommendations of the court;

Deleted: If the court chooses to place the child in the custody of the department then at the same time, the court shall consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C. ...

Deleted: of a child if the placement is recommended by the court provided that the court has made the written certification and determinations required by said section 29C;;

Deleted: may not refuse out of home placement when requested by the child if there is a substantiated history of abuse and neglect in the home by the parent or legal guardian;

Deleted: subject to clauses (i) and (ii), shall direct the type and length of such out-of-home placement...

(d) The court may not order the child to be placed in the custody of the department of youth services and may not be placed in any department of youth services facility.

2. A child found to require assistance shall not be placed in a locked facility or may facility designated or operated for juveniles adjudicated delinquent. However, if such child meets applicable admission criteria, such child may be placed in a facility which operates as a group home or psychiatric facility to provide therapeutic care for juveniles regardless of whether juveniles adjudicated delinquent are also provided care in such facility provided no such contract exists limiting the group home to referrals from DYS.

Deleted: subject to clauses (i) and (ii), shall give due consideration to the recommendations of the court. Whenever the department decides not to carry out the recommendations of the court regarding placement and treatment of the child it shall present the reasons for its decision and the alternative plan for treatment and placement in writing to the court. ¶

Deleted: issue an order directing any state agency to provide particular services to the family and child including but not limited to those services described in clause (a). If the agency is not able to comply with the order directing services then the agency shall provide to the court a written statement of the reasons why it is unable to provide those services. A copy of the statement shall be sent to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities and the office of the child advocate....

Section 39V1/2 Prohibition on placements with the department of youth services or in locked facilities

1. Notwithstanding the provisions of subsection 2 (d) the court may not order the child to be placed in the custody of the department of youth services

2. A child found to require assistance shall not be placed in a locked facility or any facility designated or operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent. However, such child may be placed in a facility which operates as a group home to provide therapeutic care for juveniles regardless of whether juveniles adjudicated delinquent are also provided care in such facility.

Section 39W Duration of Assistance

1. Any order of disposition under Section 39V shall continue in force for not more than 90 days; provided, however, that the court which entered the order may, after a hearing, extend its

992 duration for up to three additional periods, each such period not to exceed 90 days, if the court
993 finds that the purposes of the order have not been accomplished and that such extension would
994 be reasonably likely to further those purposes. The child shall have the opportunity to present
995 evidence and rebut evidence presented at any extension hearing.

996 2. No order shall continue in effect after the eighteenth birthday of a child named in a request for
997 assistance.

998 Section 39X. Custodial Protection

999 1. (a) A child may be taken into custodial protection for engaging in the behaviors described in
1000 section 39N, only if such child has failed to obey a summons issued pursuant to section 39O, or
1001 if the law enforcement officer initiating limited custody has probable cause to believe that such
1002 child has run away from the home of his parents or legal guardian and will not respond to a
1003 summons.

1004 (b) After an officer has taken a child into custodial protection, the officer shall immediately
1005 notify the parent or other person legally responsible for the child's care, or the person with whom
1006 he is domiciled, that he is under the custodial protection of the officer.

1007 (c) After making every reasonable effort to give notice under paragraph (b), the officer shall:

1008 (i) release the child to the custody of his or her parent or other person legally responsible
1009 for his or her care upon the written promise, without surety, of the person to whose
1010 custody the child is released that he will bring the child to the program designated to
1011 provide community-based services for the geographic region which constitutes the

1012 district of the juvenile court department within which the child was taken into custodial
1013 protection or in which the child resides, at a time and place specified in writing; or

1014 (ii) forthwith and with all reasonable speed take the child directly, and without first being
1015 taken to the police station house, to the program designated to provide community-based
1016 services for the geographic region which constitutes the district of the juvenile court
1017 department within which the child was taken into custodial protection or in which the
1018 child resides,; or

1019 (iii) release the child to a representative of the department of children and families, if the
1020 law enforcement officer has reason to believe that the child is or has been in the care or
1021 custody of such department; or

1022 (iv) take the child directly to the juvenile court in which the act occasioning the taking
1023 into custodial protection occurred, provided that the officer affirms on the record that he
1024 or she attempted to exercise the options identified in paragraphs (i), (ii), and (iii) of this
1025 subdivision, was unable to exercise these options, and the reasons therefore.

1026 (d) In the absence of special circumstances, the officer shall release the child to his parents or
1027 other person legally responsible for his care in accord with paragraph (c)(i).

1028 (e) A child may not be securely detained in a police station or town lockup. At no time shall a
1029 child be held in any locked facility..

1030 (f) Notwithstanding the foregoing requirements for placement, any such child who has been
1031 taken into custodial protection shall, if necessary, be taken to a medical facility for treatment or
1032 observation.

1033 SECTION 5

1034 Notwithstanding any general law to the contrary the secretary of the executive office of health
1035 and human services and the commissioners of departments of public health, mental health,
1036 developmental services, children and families, youth services and transitional assistance shall
1037 enter into memoranda of understanding among themselves and with the department of
1038 elementary and secondary education, office of the commissioner of probation, the juvenile court,
1039 municipal police departments and school districts to provide coordination, delivery, and funding
1040 of services to children and families who, pursuant to the provisions of section 16H(7)(b) of
1041 chapter 6A of the General Laws, are not eligible for community-based services established
1042 pursuant to section 16H of chapter 6A.

1043 SECTION 6

1044 The secretary of the executive office of health and human services shall pilot a program to
1045 address the unique needs of girls who run away from their parents and legal guardians.

1046 SECTION 7

1047 The department of elementary and secondary education shall pilot a truancy prevention program
1048 using a restorative justice format in at least one urban high school in the Commonwealth. The
1049 program shall include the use of healing circles which allow family, neighborhood and school
1050 community members to be present; a reparative board, comprised of peers and led by an adult;

1051 mediation or alternative dispute resolution with the child, family members and school
1052 representatives. The program shall be designed to address the underlying causes both in and out
1053 of school which led to truancy. The department shall evaluate the effectiveness of the program
1054 in preventing truancy and enhancing the child's academic performance and report the results of
1055 that evaluation to the board of elementary and secondary education.

1056 SECTION 8

1057 Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 3 of the first paragraph,
1058 the word "sixteen" and inserting in place thereof the following word:- eighteen.

1059 SECTION 9

1060 Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 4 of the second
1061 paragraph, the word "sixteen" and inserting in place thereof the following word:- eighteen

1062 SECTION 10

1063 Two years after the effective date of this act, the Child Advocate shall report to the governor, the
1064 president of the senate, the speaker of the house, the senate and the house committees on ways
1065 and means, and the chairs of the joint committee on children, families and persons with
1066 disabilities on the needs of families whose children are truant, runaways, or whose conduct
1067 interferes with their parents ability to adequately care for and protect them. The report shall
1068 examine: (i) the community-based service system; (ii) the differences in service delivery
1069 throughout the state; (iii) the need for immediate response to stabilize a family in crisis and to
1070 connect the family to services in their own community; and (iv) the collection and analysis of
1071 information needed to evaluate and identify gaps in service to such children and families
1072 throughout the commonwealth. The report shall also review and make recommendations, as

1073 appropriate, with respect to system-wide improvements that may increase the effectiveness of the
1074 care and services provided to such children and their families and suggested legislative and
1075 regulatory changes. The report shall be made public.

1076 SECTION 11

1077 The department of mental health, in collaboration with the department of youth services and the
1078 department of public health shall conduct a comprehensive review of the mental health and
1079 substance abuse service needs of adolescents in the care of or detained in the commonwealth
1080 through the order of a juvenile court, including without limitation juveniles detained in the
1081 department of youth services or in the custody of the department of children and families or
1082 receiving services from the department of mental health, the court clinics, probation or otherwise
1083 and including without limitation any such departments, offices, agencies or instrumentalities of
1084 the commonwealth, and any private organizations or agencies operating under arrangement with
1085 departments or agencies of the commonwealth. To complete said review the department of
1086 mental health, the department of youth services, and the department of public health shall solicit
1087 input from the office of probation, the department of children and families , the department of
1088 elementary and secondary education, the juvenile court, the juvenile court clinics, the committee
1089 for public counsel services, the department of mental retardation, the division of insurance,, the
1090 division of medical assistance, the Massachusetts Association of District Attorneys, at least one
1091 individual representing the interests of parents and families, at least one advocate for juvenile
1092 justice, at least one representative of the service provider community, and at least one
1093 representative of the Massachusetts Association of Health Plans. Said review shall be for
1094 purposes of identifying the following:

1095 (i) existing and proposed models of alternatives to detention, within and outside the
1096 commonwealth, of providing mental health and substance abuse services to
1097 juveniles in detention, and as alternatives to detention; community resources and
1098 other dependencies which affect the appropriateness and effectiveness of models
1099 of alternatives to detention; and data demonstrating the relative efficacy, cost –
1100 effectiveness, and effect on public safety of alternative models;

1101 (ii) unmet mental health and substance abuse needs of juveniles within the juvenile
1102 court systems of the commonwealth, including an explicit comparison of the best
1103 practices and models identified in paragraph a of this section with services and
1104 models available in the commonwealth;

1105 (iii) recommendations for addressing unmet needs, including without limitation
1106 through the court clinics of the juvenile courts, and through contracting by the
1107 department of mental health for community based services through community
1108 providers, or through consortia of community providers, local government
1109 agencies and others operating in congruence with local courts involved in the
1110 juvenile justice system.

1111 (b) within 60 days after the effective date of this act, the department shall post to its external
1112 website, for 30 days public comment, a proposed work plan to gather information necessary to
1113 prepare the report required by this section, in consultation with clinical, philanthropic and
1114 advocacy organizations for children, and providers of mental health and substance abuse services
1115 for minors. The proposed work plan shall be directed to submit a final report to the legislature
1116 and the governor no later than 270 days after the effective date of this act.

1117 (c) Within 90 days after the effective date of this act, the department shall post its final work plan
1118 on its external website.

1119 (d) Within 210 days after the effective date of this act, the department shall post on its external
1120 website, for public comment, a draft report responsive to this section.

1121 (e) Within 270 days after the effective date of this act, the department shall post on its external
1122 website, a final report responsive to this section, including a summary of all public comments
1123 received, and responses to such comments. The department shall also that day provide a copy to
1124 the governor, the president of the senate, the speaker of the house of representatives, the chairs of
1125 the joint committees of mental health and substance abuse, and children, families and persons
1126 with disabilities and the legislative mental health caucus.

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