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

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

1.*Whereas* families in the Commonwealth whose children are truant, runaway and acting in a fashion that interferes with their parent's ability to adequately care for and protect said children are families in crisis; and

Whereas the issues facing said children and families are complex and the services which would best assist such families are not always available from a single agency or department of the Commonwealth and the collaboration among multiple public and private agencies and offices is required to ensure that all children and families receive the services they need to succeed; and

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

Whereas services are not consistently available in all communities;

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

2. It is the intent of the General Court to create an accountable, community-based system that provides consistent services throughout the Commonwealth to address the needs of families and children in crisis by providing them with an array of resources. The goal of said system is to preserve and strengthen families while ensuring the healthy emotional, mental, and social development of the child. These services shall focus on creating a stable environment and strengthening the family as a whole while emphasizing parental responsibility.

Said community-based system shall provide the family and child with immediate responses for

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23 the stabilization of the family, as well as to connect the family to additional services in the
24 community through referrals and advocacy. The services provided to the families and children
25 involved shall be provided on a continuum of increasing intensity with the goal of keeping the
26 child out of the juvenile justice and child protection systems. The system shall include a
27 mechanism for the collection and analysis of information which will enable the Commonwealth
28 to evaluate the effectiveness of services and to identify gaps in services. It is the intent of the
29 General Court to reserve judicial intervention for those children and families who require
30 services beyond said community-based services in order to achieve stabilization and resolution.
31 3. For the purpose of this Section the following words shall have the following meanings:
32 'Child requiring assistance': a child between the ages of 6 and 18 who repeatedly runs away
33 from the home of his parents or legal guardian or repeatedly fails to obey the lawful and
34 reasonable commands of his parents or legal guardian, thereby interfering with said parent's or
35 legal guardian's ability to adequately care for and protect said child or repeatedly fails to obey
36 the lawful and reasonable regulations of his school or who is habitually truant;

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

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

49 ‘Habitually truant’: a child between the ages of 6 and 18 not otherwise excused from attendance
50 in accordance with the lawful and reasonable regulations of his school who fails to attend school
51 for more than 8 school days in a quarter;
52 ‘Secretary’: the secretary of the Executive Office of Health and Human Services.

53 4. (a) The secretary, in consultation with the commissioners of the departments of children and
54 families, youth services, mental health, and public health shall establish a network of child and
55 family service programs throughout the Commonwealth to provide community-based services to
56 all children and families who are at risk of contact with the juvenile justice system or the child
57 protection system, families with children requiring assistance, and children who require
58 assistance. The secretary may enter into contracts with the Community Service Agencies
59 (CSAs), local schools, other local public agencies, private organizations, or medical or mental
60 health care providers who shall act as Community-Based Service Centers, to implement the
61 program and provide services which are within their capacity. .In awarding the contracts the
62 secretary shall seek to promote efficiency and access to existing services. The Community-
63 Based Service Centers shall be encouraged to subcontract with other local providers as needed to
64 provide the full complement of services required under paragraph 8 of this section. (b) The
65 purpose of the community-based services program shall be to assist families so that children will
66 be able to continue residing with their families in their home communities; assist families to
67 enable children to continue as students in their community schools; strengthen the relationships

68 between children and families; and provide coordinated, comprehensive, community-based
69 services for children at risk of dropping out of school delinquency, or engaging in behaviors
70 which impede the likelihood of their leading healthy, productive lives.
71 (c) The secretary shall:

72 (i) design models for delivery of community-based services by community-based
73 organizations and collaborations of public and private organizations;
74 (ii) pilot alternative systems to address the problem of children running away from their
75 parents or legal guardians;
76 (iii) develop standards necessary to achieve and maintain on a statewide basis
77 comprehensive and integrated community-based services for children and families;
78 (iv) monitor and provide technical assistance to providers of community-based services;
79 (v) adopt a standard intake screening and assessment tool to evaluate all families and
80 children seeking community-based services which identifies the family's strengths,
81 resources, and service needs such as mental health, behavioral health, or substance abuse
82 treatment, basic family shelter, clothing and food needs, child care needs, health
83 insurance status, legal issues, education placement, and child protection;
84 (vi) create a data collection system for use by programs which maintains the privacy of
85 clients served, assists programs and the executive office of health and human services in
86 addressing the needs of the population to be served, collects information related to,
87 among other things, the insurance status and benefit coverage of clients served, income
88 documentation as needed to apply a sliding fee scale for payment or waiver of payment
89 for services, and other information that may assist the program and the secretary in

90 providing services, identifying service needs and gaps, and evaluating the effectiveness
91 of community-based services.

92 5. (a) Subject to appropriation, the secretary shall make grants for the purpose of planning,
93 establishing, operating, coordinating, and evaluating Community Based Service Centers. At least
94 one grant shall be awarded for the operation of a community-based services program in each of
95 the department of children and families' service areas. Additionally, two grants shall be awarded
96 for runaway treatment and prevention programs, one in an urban location and one in a rural
97 location. Grants may award funding for up to five years subject to demonstration of effectiveness
98 and the submission of annual reports to the secretary.
99 (.

100 (c) The secretary shall issue requests for proposals for the provision of community-based
101 services. Proposals must demonstrate expertise in assisting children and families who are at risk
102 of contact with the juvenile justice system or the child protection system and program staffing
103 which meets the credentialing and caseload criteria as defined by the secretary. Proposals shall
104 also require that applicants submit:

105 (i) A plan for development, implementation and coordination of services as required
106 under paragraph 8 of this section for families from public and private providers.
107 (ii) A plan for the establishment of a local advisory board which, wherever possible, shall
108 be a subcommittee of the Systems of Care Committee required of all CSAs to focus on
109 the needs of families and children at risk of involvement in the juvenile justice system
110 and the child protection system. The subcommittee shall include: representatives from
111 school districts, police officers, juvenile probation officers, district attorneys, attorneys

112 who represent children and parents, mental health clinicians, behavioral health providers,
113 parents and youth. The committee may also include local religious organizations,
114 representatives of local businesses, higher education, social service agencies, public
115 health agencies and other persons with experience in assisting youth and families in
116 crisis. Membership shall be broadly representative of the racial ethnic and economic
117 diversity of the community. The local advisory boards may, where necessary to facilitate
118 work in communities, create similarly constituted work groups for each municipality in
119 the service area;

120 (iii) Periodic evaluation of the success in achieving program goals and a process for
121 making adaptations and improvements based on evaluation information.

122 6. (a) Community-based services shall be available to children between the ages of 6 and 18 who
123 are habitually truant or children between the ages of 6 and 18 who run away from the home of
124 their parents or legal guardian or refuse to obey the lawful rules of their parents or legal guardian
125 or repeatedly fail to obey school rules and to families whose children engage in such behaviors.
126 (b) Whenever the staff of the program offering community-based services determines that a
127 family seeking or referred for services for a child has significant and complex medical needs
128 which cannot be met by the program or where the child's behavior presents a significant risk of
129 harm to the child himself, the family or the community, the child and family shall be referred to
130 other services pursuant to Section 5 of this act.
131 (c) Where a youth has been charged with a delinquency offense or is an adjudicated delinquent,
132 eligibility for participation in community-based services shall be determined by the program
133 administrator after a review of the facts surrounding the alleged offense by a team consisting of:
134 a community-based services caseworker, probation officer, family members and the counsel

135 representing the child in the delinquency matter.

136 (d) Where the child is in the custody of the department of children and families and residing in
137 an out-of-home placement, eligibility for participation in community-based services shall be
138 determined by the program administrator after a review of the facts surrounding the placement
139 by a team consisting of the community-based services caseworker, the department of children
140 and families caseworker, a responsible adult with whom the child has an ongoing connection,
141 and if the custody is based on an order in any proceeding under chapter 119,any counsel
142 representing the child in that proceeding..

143 (e) Where a child or family is denied access to community-based services for reasons other than
144 those described in this section, the program shall provide the child and his parent, guardian, or
145 custodian a written explanation of reasons for exclusion and the identification of other
146 community-based services and resources available to them.

147 (f) When a child or family is denied services pursuant to this section, the program shall contact
148 the child and his parent, guardian, or custodian in person or by telephone within two weeks after
149 the denial decision to determine if the other appropriate services have been obtained and whether
150 or not community-based services are now appropriate. The program shall provide to the child
151 and his parent, guardian, or custodian a notice in a form acceptable to the juvenile court stating
152 that the family is not eligible for community-based services and listing the reasons for
153 ineligibility.

154 7. (a) A child or family may seek assistance from a community-based services program directly
155 and without referral.

156 (b) Employees of the departments of children and families or youth services may make referrals
157 to Community-Based Service Centers as part of a case plan.

158 (c) Voluntary referrals to community based services may be made by any professional who is
159 working with the family or child.

160 (d) Except as provided herein, a school administrator shall refer a child to community-based
161 services at the same time that the administrator notifies the student and his parent, guardian, or
162 custodian that the student will be expelled for failure to comply with the lawful and reasonable
163 rules of the school. After providing the process that is due the student, including an expulsion
164 hearing if requested, the school administrator shall consider the outcome of the community based
165 service center referral if the student provides that information to the school.. Provided that when
166 a school administrator refers a child for habitually truant behavior, it must be shown that the
167 school, child, and family have completed a department of education certified truancy program, if
168 such a program is available at the school. Whenever a child or family seeks assistance for
169 habitually truant behavior, the program staff shall assist the family in gaining access to the
170 child's school's department of education certified truancy program.

171 8. Community-based services shall include, but are not limited to:

172 (i) program representatives available to respond to requests for service 24 hours a day, 7
173 days a week;
174 (ii) initial response to referral or request for services by a family or child, stabilization of
175 any crisis presented within a reasonable time, not to exceed 24 hours, so as to assure the
176 safety and well being of the child and family;
177 (iii) assessment and screening of each person requesting services and, if possible, all
178 family members residing in the household using the standard intake tool as established by
179 the secretary pursuant to paragraph 4(c)(v);

180 (iv) assignment of a case manager to each family upon assessment;

181 (v) creation of a family service plan, which includes but is not limited to: strength-based
182 assessment and statement of family needs presented; services and treatment to be
183 provided by the community-based services program or to which the family and child will
184 be referred that address the identified needs, assistance with obtaining special education
185 evaluation and services, assistance with insurance coverage issues, and timeframes for
186 achieving the plan objectives. The service plan shall be reviewed and agreed upon by the
187 family before implementation;

188 (vi) data collection in a format which protects the privacy of the individuals seeking
189 services and permits the evaluation of the effectiveness of the program;

190 (vii) compilation and dissemination to the general public of information about family
191 support resources and services available in the community;

192 (viii) crisis intervention residential placements for children for up to 72 hours;

193 (ix) voluntary respite residential placement of the child for up to 21 days; and

194 (ix) mediation or alternative dispute resolution, including restorative justice programs.

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

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

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

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

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

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

219 (b) The composition of the case staffing team shall be based on the needs of the family and child
220 and be chosen after consultation with the child and their parent or legal guardian. It shall include
221 the case manager, the primary providers of services to the child and family, a representative from

222 the child's school district. The case staffing team may also include other individuals with
223 professional expertise in health care, mental health care, behavioral health care, substance abuse,
224 social or educational services, or other persons recommended by the child, parent or legal
225 guardian, or case manager.

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

231 (d) The case manager shall, in consultation with the family, develop a family service plan which
232 shall be provided to the child and their parent or legal guardian and other family members
233 requiring assistance who are involved in the plan within ten days of the initial referral. Upon
234 receipt of the plan, the child and each family member named in the plan shall accept or reject the
235 services and provisions in writing. Each service provider identified in the plan shall also accept
236 or reject their participation in writing. If the plan is accepted, it shall be implemented
237 immediately. If the child or family is not in agreement with the plan and attempts by the case
238 manager to develop an alternative plan are unsuccessful or when the services required are not
239 available, the child, their parent or guardian or the case manager may request review by the
240 service engagement team who shall assist the case manager, child and family in developing an
241 alternative plan.

242 (e) The case manager and the family shall be equally responsible for implementing the plan. The
243 case manager, the family and child shall periodically review the progress towards achieving the
244 objectives of the plan in order to:

245 (i) advise the case staffing team of the need to make adjustments to the plan; or
246 (ii) conclude the case as indicated by successful or substantial achievement of the
247 objectives of the plan.

248 (f) The case manager shall request a meeting of the family and child at a time and place that is
249 convenient to them with a case staffing team to review the family service plan of any family or
250 child whenever:

251 (i) the family or child is not in agreement with the services or treatment offered; or
252 (ii) the family or child does not participate in the services or treatment selected; or
253 (iii) a school state agency or private service provider does not provide the services or
254 treatment selected; or
255 (iv) the case manager needs assistance in developing an appropriate plan for the provision
256 and funding of services; or
257 (v) there is cause to believe that continuation of services is no longer appropriate because
258 the child has complex medical needs which cannot be met by the program or where the
259 child's behavior presents a significant risk of harm to the child himself the family or the
260 community.

261 (g) The parent or legal guardian or child who is over the age of 16 or any other member of the
262 case staffing team may make a written request that the case manager convenes a resolution
263 meeting at any time if the member finds that doing so is in the best interest of the family or child.

264 A resolution meeting requested by a parent or legal guardian or child who is over the age of 16
265 must be convened within 7 working days from the date that the case manager receives the
266 request in writing.
267 11. (a) Not more than 110 days after the assessment and screening of a child and family referred
268 to or requesting community-based services, or 10 days prior to any extension of services granted
269 under paragraphs c and d of this section, the case manager shall convene a resolution meeting
270 with the case staffing team to assess whether the goals of the family service plan have been
271 achieved or if further services are in the best interest of the family and child. After the meeting
272 the case manager shall document the resolution of the case as follows:

273 (i) that the family and or child will benefit from additional community-based services; or

274 (ii) that it is unlikely the family and child will benefit from additional community-based
275 services at this time and the case is discharged; or

276 (iii) that the family failed to cooperate with the service plan and the case is discharged; or

277 (iv) that the public or private agencies designated in the plan to provide specific
278 services did not provide those services and the case is discharged; or

279 (v) that the presenting behaviors are resolved and the case is discharged.

280 (b) Within 7 days after meeting, the case manager shall provide the parent or legal guardian with
281 a written report that details the reasons for the decisions made at the resolution meeting. The
282 report shall contain a notice in a form acceptable to the juvenile court stating that community-
283 based services have concluded and whether or not the case manager believes it is likely that the
284 child and family would benefit from further services.

285 (c) If the family, child and case manager agree to extend services, then the services shall be
286 extended for an additional 90 days.

287 (d) If the family was referred to community-based services by a court or a probation officer, then
288 services may be extended for additional 90 day periods at the request of the court or probation
289 officer.

290 12. (a) The report and any documentation of services provided to the family and child shall not
291 be public records. Statements made by the family and child while receiving services from the
292 program shall be treated as confidential. Such statements may not be used in school disciplinary
293 proceedings or in any court proceeding without the written consent of the person making the
294 statement.

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

298 (c) Not withstanding any provision to the contrary, in the absence of specific written directive
299 from the child and or member of the family who is receiving service, information about the case,
300 including interactions with service providers and protected health information services, may be
301 shared among members of the case team as needed to coordinate treatment and provide
302 appropriate case management.

303 13. There shall be an advisory council appointed by the secretary, which shall advise the
304 secretary on creation, operation, and effectiveness of the community-based services
305 program. Members shall include the commissioners or their designees of the departments of
306 public health, mental health, developmental services, children and families, youth services,
307 transitional assistance, elementary and secondary education, early education and care, and public

308 safety, the child advocate, the director of the office of Medicaid or his designee, the
309 commissioner of probation or his designee, the chief justice of the juvenile court or his designee,
310 a district attorney, members of the bar who represent children in juvenile court proceedings, a
311 designee of the committee for public counsel services, an education advocate, representatives of
312 urban, suburban, and rural municipal police departments and school districts, providers of
313 service to children and families, parents, and at least 2 young adults who have participated in a
314 community-based services program.
315 14. The secretary shall report annually on February 1 to the joint committee on children, families
316 and persons with disabilities and the house and senate committees on ways and means and the
317 child advocate on the progress of the community-based services program.

318 SECTION 2: Chapter 69 of the General Laws is hereby amended by adding after section 1N the
319 following new section:

320 Section 1O. Within three years of the effective date of this act, the department shall establish a
321 discretionary grant program to assist schools in planning and implementing truancy preventions
322 programs which meet the certification requirements established pursuant to section 1P of Chapter
323 69."

324 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section 1O the
325 following new section:

326 Section 1P

327 The Department of Education shall promulgate regulations establishing a truancy prevention
328 program certification process. The regulations shall include requirements that the truancy
329 prevention program evaluate the level of out-of-school support for students and families, and

330 address the conditions that may make students more likely to become truant, including
331 previously unidentified special needs, bullying and harassment. School districts shall establish a
332 truancy prevention program which meets the requirements for certification by the department.

333 SECTION 4: Chapter 119 of the General Laws is hereby amended by repealing Sections 39E to
334 39J, inclusive, and adding the following new sections:

335 Section 39K. Definitions

336 "Child requiring assistance", a child below the age of eighteen who repeatedly runs away from
337 the home of his parents or legal guardian, or repeatedly fails to obey the lawful and reasonable
338 commands of his parents or legal guardian, thereby interfering with said parent's or legal
339 guardian's ability to adequately care for and protect said child, or repeatedly fails to obey the
340 lawful and reasonable regulations of his school, or who is a habitually truant;

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

345 "Habitual truant", a child between the ages of 6 and 18 , not otherwise excused from attendance
346 in accordance with the lawful and reasonable regulations of his school, who willfully fails to
347 attend school for more than 8 school days in a quarter;

348 "Parent", includes a legal guardian or other person legally responsible for a child's care.

349 Section 39L. Jurisdiction

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

354 Section 39M. Nature of the Proceedings

355 1. Proceedings pursuant to sections 39K to 39X, inclusive, shall not be deemed criminal
356 proceedings and any record of these proceedings, including the filing of a request for assistance
357 and creation of a docket, shall not be entered in the Criminal Offender Record Information
358 System.

359 2. Proceedings pursuant to sections 39K to 39X, inclusive, shall be confidential and not be open
360 to the public.

361 Section 39N. Request for Assistance

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

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

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

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

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

373 (i) if the request for assistance states that a child is habitually truant, a
374 statement of the actions taken by the school district to comply with its
375 obligations under its truancy prevention program certified pursuant to
376 chapter 69, section 1O and to improve the school attendance of the
377 child. The request for assistance shall also state whether or not the
378 child and his family have participated in the truancy prevention
379 program.; and
380 (ii) if the request for assistance states that a child has repeatedly failed to
381 obey the lawful and reasonable regulations of the school, a statement of
382 the specific steps taken by the school to improve the child's conduct.

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

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

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

387 (b) a parent;

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

390 3. (a)The petitioner shall attach to the request for assistance the notice of conclusion of
391 community-based services as provided for in chapter 6A, section 16H(11)(b) or notice of
392 ineligibility as provided for in chapter 6A, section 16H(e). Except as provided in paragraph (b),
393 the clerk shall not accept for filing any request for assistance that does not have attached thereto
394 said notice of conclusion or ineligibility and a person or agency seeking to file a request for
395 assistance pursuant to this section which does not have attached thereto the notice of conclusion
396 of community-based services shall be referred by the clerk of the court to a program designated
397 by the secretary of the executive office of health and human services to provide community-
398 based services in the juvenile court district where the child resides. If the clerk accepts the
399 request for assistance then the clerk shall create a docket for the matter. and request that the chief
400 probation officer or his designee, conduct an immediate inquiry in order to recommend to the
401 court whether or not there is probable cause for a determination that a child and family are in need of
402 assistance and whether it is in the best interest of the child for the matter to proceed to a fact finding
403 hearing.

404 (b) If the petitioner is a police officer, the clerk may accept a written statement of the reasons for
405 the officer's belief that the referral to community-based services prior to filing the request for
406 assistance would present a risk of harm to the child or others in lieu of the notice of conclusion
407 or ineligibility. The clerk shall then i) immediately contact the designated community-based
408 services to provide notice that a request for assistance has been filed, ii) create a docket for the
409 matter and iii) request that the chief probation officer, or his designee, conduct an immediate
410 inquiry and report to the clerk, or a judge if the clerk is not available with advice on how to
411 proceed to obtain assistance for the child.. If the petitioner is a parent, then the clerk may accept
412 a statement of the parents' reasons for the parents' belief that referral to community based

413 services prior to filing the request for assistance would present a risk of significant harm to the
414 child, family or community. The clerk shall then immediately review the request for assistance
415 and if the clerk finds that a referral of the family and child to community based services is likely
416 to result in said harm, then the clerk shall create a docket for the matter and request that the chief
417 probation officer or his designee, conduct an immediate inquiry and report to the clerk, or a
418 judge if the clerk is not available with advice on how to proceed to obtain assistance for the
419 child.

420 Section 39O Notice

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

425 2. In proceedings commenced by a parent the court shall cause a copy of the request for
426 assistance and notice of the time and place to be heard to be provided to that person when the
427 request is filed. The court is not required to issue a summons to either parent in such a case if the
428 parents are living together. If the parents are not living together, the court shall cause a copy of
429 the request for assistance and a summons to be issued, requiring the child and the parent who did
430 not initiate the request for assistance to appear to address the request for assistance at the court at
431 a time and place named.

432 3. A copy of the request for assistance served or provided under subsection 1 or 2 shall be
433 accompanied by a notice that, in the event that the court deems it necessary to place the child in

434 the care and custody of the department of children and families, said parent may be named as a
435 respondent in any child support proceeding brought in connection with the child's care

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

441 Section 39O ½ Determination of probable cause that a child and family requires assistance;
442 Expungement.

443 Whenever a request for assistance is filed, the clerk, or a judge if the clerk is not available, shall
444 hold a hearing as soon as possible, but not later than 15 days after the creation of a docket. At
445 that hearing the clerk or a judge if the clerk is not available, shall receive the recommendation of
446 the probation officer and receive evidence from the petitioner and the child. The clerk, or the
447 judge shall determine i) whether or not there is probable cause for a determination that a child
448 and family are in need of assistance and ii)whether it is in the best interest of the child for the
449 matter to proceed to a fact finding hearing. The clerk or judge shall then either i) dismiss the
450 request for assistance, or ii) refer the child and family to a probation officer for the preliminary
451 inquiry under section 39R. When a request for assistance is dismissed under this section, the
452 court shall enter an order directing the expungement of any records of the claimant maintained
453 by the clerk, the court, the criminal history systems board, and the probation department that
454 directly pertain to the this request for assistance.

455

456 Section 39P Scheduling the Fact Finding Hearing

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

462 Section 39Q Appointment of Counsel

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

468 2. When the request for assistance is filed, each parent or legal guardian of the child shall be
469 informed that he has the right to participate as a party in any proceeding under sections 39K to
470 39X involving his child and that he has the right to counsel at any hearing or proceeding
471 regarding custody of his child. If said parent or legal guardian is financially unable to retain
472 counsel, the court shall appoint counsel for said parent or legal guardian.

473 3. The court shall determine whether the parent or legal guardian of a child alleged to require
474 assistance is indigent. If the court determines that the parent or legal guardian is not indigent, the

475 court shall assess a $300 fee against the parent or legal guardian to pay for the cost of counsel
476 appointed for the child. If the parent or legal guardian is determined to be indigent but is still
477 able to contribute toward the payment of some of said costs, the court shall order the parent or
478 legal guardian to pay a reasonable amount toward the cost of counsel appointed for the child.

479 Section 39R Preliminary Inquiry by Probation

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

483 The probation officer in his discretion may:

484 (a) refer the family and child to the program designated to provide community-based
485 services for this juvenile court division; the probation officer may confer with the
486 provider of community-based services to resolve the situation which formed the basis of
487 the request for assistance;

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

490 (c) conduct conferences with the child, the child's family and the petitioner for the
491 purpose of effecting adjustments or agreements which are calculated to resolve the
492 situation which formed the basis of the request for assistance. Information obtained by
493 the probation officer may be used in the present proceeding but it is otherwise

494 confidential and may not be used in school disciplinary proceedings or other court
495 proceedings;

496 (d) if the child or his parents fail to participate in good faith with the referrals or
497 conferences arranged by the probation officer or if the probation officer is not able to
498 refer the child or his parents to an appropriate public or private organization which is
499 willing and able to provide appropriate services, the probation officer shall so certify in
500 writing and present these findings to the court.

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

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

513 (c) The Commissioner of Probation shall report annually to the Child Advocate on the assistance
514 provided by probation officers to children and families under Sections 39K to 39X. The report

515 shall be filed on October 1 of each year and shall include for each juvenile court district: the
516 number of children and families receiving assistance, their racial and ethnic identity, as identified
517 by the child and family members, an analysis of the services provided and an identification of
518 gaps in services available, the status or resolution of each request for assistance filed in the
519 previous year, and the numbers of children who are the subject of a request for assistance and
520 also charged with a delinquency matter in the previous year. The report shall exclude
521 information that identifies or allows others to identify any child or family who is the subject of a
522 request for assistance.

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

530 Section 39S Custody, Failure to Appear

531 If, after a hearing at which the child is represented by counsel, the court finds that a child alleged
532 to require assistance by reason of repeatedly failing to obey the lawful and reasonable commands
533 of his parent is likely not to appear at the fact finding hearing or at the disposition hearing, the
534 court may order the child to be released upon such terms and conditions as it determines to be
535 reasonable or may place the child in the temporary custody of the Department of Children and
536 Families.

537 An order placing a child with the department under this Section shall be valid for no more than
538 15 days without the child being brought again before the court for a hearing on whether the order
539 should be continued for another 15 day period. If the court decides to extend the order, it shall
540 note in writing the detailed reasons for its decision. An order under this section may be in effect
541 for no more than 45 days total.

542 A child who is the subject of a request for assistance may not be confined in shackles or similar
543 restraints or in a court lockup facility in connection with any proceedings pursuant to Sections
544 39K through 39X.

545 Section 39T Withdrawal of Request for Assistance

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

550 Section 39U Fact Finding Hearing

551 1. The court shall hold a fact finding hearing in which it shall receive evidence from the
552 petitioner, the parent, the child, the community-based services program case manager and the
553 probation officer. At any hearing held to determine whether a child and family require assistance,
554 the child and his attorney shall be present and the parents or legal guardian shall be given an
555 opportunity to be heard. The petitioner who files the request for assistance shall bear the burden
556 of presenting evidence proving that the child and family require assistance

557 2. At the fact finding hearing the court shall review any notice of the conclusion of community-
558 based services. The court shall consider any available documentation of diligent attempts to
559 provide appropriate services and determine whether such efforts or services provided were
560 sufficient. With the consent of the parent(s) and child the court may consider any written reports
561 from service providers which would otherwise be subject to confidentiality or privilege.

562 The court may refer the child and the parent or other person legally responsible for the child to
563 participate in community-based services regardless of whether or not the child and parents have
564 previously used community based services on a voluntary basis.

565 3. The court shall either:

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

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

573 (iii) If the court finds the allegations in the request for assistance have been proved at the
574 fact finding hearing beyond a reasonable doubt, it may find that the child and family
575 named in such request for assistance to be a child and family requiring assistance and
576 schedule a hearing for disposition

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

580 Section 39V Disposition Conference and Hearing

581

582 1. Upon making a finding that a child and family require assistance at a fact finding hearing , the
583 court shall convene a conference of the probation officer who conducted the preliminary inquiry,
584 the case manager, if any, from the community-based services program, the petitioner, a
585 representative from the child's school, the child's parent and his attorney, the child and his
586 attorney, a representative of the department of children and families, and any other person who
587 may be helpful in determining the assistance to be offered to the child and family. The probation
588 officer shall present written recommendations and other persons at the meeting may present
589 written recommendations to the court to advise the court on appropriate treatment and services
590 for the child and family and appropriate placement for the child and appropriate conditions and
591 limitations of such placement.

592 At the conference and subsequent hearing on disposition, the child and his attorney shall be
593 present and the parents or legal guardian and the petitioner shall be given an opportunity to be
594 heard. The court may receive evidence as to the best disposition from all persons who
595 participated in the conference.

596 2. The court shall then conduct a dispositional hearing. The court, taking into consideration the
597 evidence admitted at the hearing, the report of the probation officer, and the physical and
598 emotional welfare of the child, may make any of the following orders of disposition:

599 (a) subject to any conditions and limitations the court may prescribe, including provision
600 for medical, psychological, psychiatric, educational, occupational and social services, and
601 for supervision by a court clinic or by any public or private organization providing
602 counseling or guidance and for any other services deemed appropriate by the court,
603 permit the child to remain with his parents;

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

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

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

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

616 (c) subject to the provisions of sections 32 and 33 and with such conditions and
617 limitations as the court may recommend, place the child in the custody of the department
618 of children and families. If the court chooses to place the child in the custody of the
619 department then at the same time, the court shall consider the provisions of section 29C
620 and shall make the written certification and determinations required by said section 29C.
621 When the court has placed a child in the custody of the department, then the department:

622 (i) may not refuse out-of-home placement of a child if the
623 placement is recommended by the court provided that the court
624 has made the written certification and determinations required
625 by said section 29C;
626 (ii) may not refuse out of home placement when requested by the
627 child if there is a substantiated history of abuse and neglect in
628 the home by the parent or legal guardian;
629 (iii) subject to clauses (i) and (ii), shall direct the type and length of
630 such out-of-home placement;
631 (iv) subject to clauses (i) and (ii), shall give due consideration to the
632 recommendations of the court. Whenever the department
633 decides not to carry out the recommendations of the court
634 regarding placement and treatment of the child it shall present
635 the reasons for its decision and the alternative plan for treatment
636 and placement in writing to the court.

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

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

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

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

653 Section 39W Duration of Assistance

654 1. Any order of disposition under Section 39V shall continue in force for not more than 90 days;
655 provided, however, that the court which entered the order may, after a hearing, extend its
656 duration for up to three additional periods, each such period not to exceed 90 days, if the court
657 finds that the purposes of the order have not been accomplished and that such extension would

658 be reasonably likely to further those purposes. The child shall have the opportunity to present
659 evidence and rebut evidence presented at any extension hearing.

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

662 Section 39X. Custodial Protection

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

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

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

672 (i) release the child to the custody of his or her parent or other person legally responsible
673 for his or her care upon the written promise, without surety, of the person to whose
674 custody the child is released that he will bring the child to the program designated to
675 provide community-based services for the geographic region which constitutes the
676 district of the juvenile court department within which the child was taken into custodial
677 protection or in which the child resides, at a time and place specified in writing; or

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

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

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

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

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

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

697 SECTION 5

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

707 SECTION 6

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

710 SECTION 7

711 The department of elementary and secondary education shall pilot a truancy prevention program
712 using a restorative justice format in at least one urban high school in the Commonwealth. The
713 program shall include the use of healing circles which allow family, neighborhood and school
714 community members to be present; a reparative board, comprised of peers and led by an adult;
715 mediation or alternative dispute resolution with the child, family members and school
716 representatives. The program shall be designed to address the underlying causes both in and out
717 of school which led to truancy. The department shall evaluate the effectiveness of the program
718 in preventing truancy and enhancing the child's academic performance and report the results of
719 that evaluation to the board of elementary and secondary education.

720 SECTION 8

721 Chapter 741 of the Acts of 1965 is herby amended by striking out, in line 3 of the first paragraph,
722 the word “sixteen” and inserting in place thereof the following word:- eighteen.

723 SECTION 9

724 Chapter 741 of the Acts of 1965 is herby amended by striking out, in line 4 of the second
725 paragraph, the word “sixteen” and inserting in place thereof the following word:- eighteen

726 SECTION 10

727 Two years after the effective date of this act, the Child Advocate shall report to the governor, the
728 president of the senate, the speaker of the house, the senate and the house committees on ways
729 and means, and the chairs of the joint committee on children, families and persons with
730 disabilities on the needs of families whose children are truant, runaways, or whose condict
731 interferes with their parents ability to adequately care for and protect them. The report shall
732 examine: (i) the community-based service system; (ii) the differences in service delivery
733 throughout the state; (iii) the need for immediate response to stabilize a family in crisis and to
734 connect the family to services in their own community; and (iv) the collection and analysis of
735 information needed to evaluate and identify gaps in service to such children and families
736 throughout the commonwealth. The report shall also review and make recommendations, as
737 appropriate, with respect to system-wide improvements that may increase the effectiveness of the
738 care and services provided to such children and their families and suggested legislative and
739 regulatory changes. The report shall be made public.

740 SECTION 11

741 The department of mental health, in collaboration with the department of youth services and the
742 department of public health shall conduct a comprehensive review of the mental health and
743 substance abuse service needs of adolescents in the care of or detained in the commonwealth
744 through the order of a juvenile court, including without limitation juveniles detained in the
745 department of youth services or in the custody of the department of children and families or
746 receiving services from the department of mental health, the court clinics, probation or otherwise
747 and including without limitation any such departments, offices, agencies or instrumentalities of
748 the commonwealth, and any private organizations or agencies operating under arrangement with
749 departments or agencies of the commonwealth. To complete said review the department of
750 mental health, the department of youth services, and the department of public health shall solicit
751 input from the office of probation, the department of children and families , the department of
752 elementary and secondary education, the juvenile court, the juvenile court clinics, the committee
753 for public counsel services, the department of mental retardation, the division of insurance,, the
754 division of medical assistance, the Massachusetts Association of District Attorneys, at least one
755 individual representing the interests of parents and families, at least one advocate for juvenile
756 justice, at least one representative of the service provider community, and at least one
757 representative of the Massachusetts Association of Health Plans. Said review shall be for
758 purposes of identifying the following:

759 (i) existing and proposed models of alternatives to detention, within and outside the
760 commonwealth, of providing mental health and substance abuse services to
761 juveniles in detention, and as alternatives to detention; community resources and
762 other dependencies which affect the appropriateness and effectiveness of models

763 of alternatives to detention; and data demonstrating the relative efficacy, cost –
764 effectiveness, and effect on public safety of alternative models;
765 (ii) unmet mental health and substance abuse needs of juveniles within the juvenile
766 court systems of the commonwealth, including an explicit comparison of the best
767 practices and models identified in paragraph a of this section with services and
768 models available in the commonwealth;
769 (iii) recommendations for addressing unmet needs, including without limitation
770 through the court clinics of the juvenile courts, and through contracting by the
771 department of mental health for community based services through community
772 providers, or through consortia of community providers, local government
773 agencies and others operating in congruence with local courts involved in the
774 juvenile justice system.

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

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

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

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