

S2329
Families and Children Engaged in Services
Redraft of S68

Section 1 (Lines 1-3)	Adds Section 16H to Chapter 6A, which pertains to EOHHS. Titled: Community-based service for families and children.	Comments
Chapter 6A. Section 16H.1. (Lines 4-15)	<p>Legislative Findings and Policy of the Commonwealth</p> <p>Describes the intent of the bill to create an accountable system of community-based programs to assist children who are in need of services.</p>	
16H.2. (Lines 16-33)	<p>Intent</p> <p>To address the needs of family and children in crisis and to preserve and strengthen families while ensuring the healthy behavioral, social and educational development of the child through the provision of an array of resources.</p> <p>Services also focus on assisting children who are at risk of dropping out of school.</p> <p>Judicial intervention is to be reserved for those children and families who require services beyond community based services in order to achieve stabilization and resolution.</p>	
16H.3. (Lines 34-61)	<p>Definitions</p> <ul style="list-style-type: none"> • <i>Child requiring assistance</i> – a child between the ages of 6 and 18 who: <ul style="list-style-type: none"> ○ Repeatedly runs away from the home of his parents, legal guardian, or custodian ○ Repeatedly fails to obey the lawful and reasonable commands of his parents or legal guardian, thereby interfering with said parent's, legal guardian's or custodian's ability to adequately care for and protect said child, or ○ Repeatedly fails to obey the lawful and reasonable regulations of his school, or ○ Child who is habitually truant. • Community-based services- designed to assist families with children so that such children will be able to continue residing with their families, remain students, and strengthen relationships with families • Community Service Agency- a community-based organization whose function is to facilitate access and ensure coordination of services for families with children with serious emotional disturbance who require or are already utilizes multiple services, or are involved with multiple child-serving systems • <i>Secretary</i> – Secretary of the Executive Officer of Health & Human Services (“EOHHS”) • <i>Habitual truant</i> – a school-aged child who persistently and willfully fails to attend school for more than 8 school days in a quarter • ‘<i>Family with children requiring assistance</i>’, the parents, guardians, custodian, 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 	

16H.4.a. (Lines 62-125)	<p>Subject to appropriation or availability of third party reimbursement, the secretary shall:</p> <ul style="list-style-type: none"> • Design models for delivery of community-based services • Make grants for the coordination of community-based services • Pilot alternative systems • Develop standards • Monitor and provide technical assistance • Adopt a standard intake screening and assessment tool • Create data collection system <p>The secretary may enter into contracts with CSAs, local schools, other local public agencies, private organizations, medical or mental health care providers</p>	
16H.5.b. (Lines 165-)	<p>(No section 5.a.)</p> <p>The secretary shall issue requests for proposals, applicants must submit:</p> <ul style="list-style-type: none"> • A plan for development, implementation and coordination of services • A plan for the establishment of a local advisory board • Tools for periodic evaluation and process for making adaptations 	
16H.6.a. (Lines 188-192)	<p>Eligibility</p> <p>Services are available to persons defined in 16H.3.</p>	
16H.6.b. (Lines 193-198)	<p>Program staff may refer family and children to other services listed in 16H.4.</p>	
16H.6.c. (Lines 199-203)	<p>Children involved with the delinquency may participate depending on the determination of the program administrator, who will review the facts with caseworker, defense counsel and probation to decide, and if custody is based on an order under chapter 119.</p>	
16H.6.d. (Lines 204-210)	<p>Children in DCF custody may participate depending on the determination of the program administrator, who will review the facts with the CBS and DCF caseworkers, responsible adult, and defense counsel.</p>	
16H.6.e. (Lines 211-214)	<p>If a family or child is denied access to services for another reason, they are entitled to an explanation of why they were denied services and of other services available. Program must follow-up with the child and his parent, legal guardian, or custodian and provide notice regarding denial of participation</p>	
16H.6.f. (Lines 215-221)	<p>When denying services, the program must contact the child and his parent, legal guardian, or custodian, within 2 weeks of decision. The notice should be in a form acceptable to the juvenile court, and must list reasons for ineligibility.</p>	
16H.7.a. (Lines 222-223)	<p>Process for Seeking Services</p> <p>Children or families may seek services directly and do not need a referral.</p>	
16H.7.b. (Lines 226-227)	<p>Employees of DCF may make referrals to CBSC.</p>	
16H.7.c. (Lines 228-229)	<p>Referrals may be made by any professions working with the family or children.</p>	

16H.7.d. (Lines 160-161)	School administrators shall refer a child to CBS at the same time that the administrator notifies the student and his parent, legal guardian, or custodian that the student will be expelled. A frequently referring school must be shown that the school, child and family completed a DESE certified truancy program.	
16H.8. (Lines 171-216)	Minimum Requirement for Services: <ul style="list-style-type: none"> • Program must be open 24/7 • Initial response must not exceed 24 hours • Assessment and screening of family • Assignment of a Case Manager (“CM”) to each family • Creation of a family service plan • Data collection • Crisis intervention residential placements for up to 72 hours • Information on all available community services • Voluntary respite residential placement for up to 21 days • Mediation or alternative dispute resolution, including restorative justice programs 	
16H.9.a. (Lines 295-297)	Participation must be pursuant to a voluntary agreement of the parent, legal guardian, custodian and child, and may be terminated at any time.	
16H.9.b. (Lines 220-222)	120 day term of services – extensions Services are provided for 120 days. Services may be extended for an additional 90-day period. Services may be extended for additional 90 day periods at the request of a court or probation officer.	
16H.9.c. (Line 223)	Insurance provider will be billed for covered services.	
16H.9.d. (Lines 224-228)	Payment for services Parents, legal guardians, or custodians pay for services that are not covered by insurance pursuant to sliding fee scale established by EOHHS.	
16H.9.e. (Lines 229-231)	In the absence of the consent of a parent, legal guardian, or custodian, respite care may be provided to a child pursuant to the provisions and subject to limitations of MGL chapter 119, section 23, paragraph 7.	
16H.10.a.. (Lines 310-319)	Each family must have a CM and case staffing team. Case Staffing Team (“CST”) members vary depending on the needs of the child and family, including: CM, primary providers, school district representative, and may consist of other health and educational professionals.	
16H.10.b. (Lines 320-245)	CM will work with family to develop a family service plan. <ul style="list-style-type: none"> • Case staffing team shall work with the family to address barriers • Periodic review of staffing plan 	
16H.10.c. (Lines 251-261)	CM, CST, family and child may review progress towards achieving objectives of plan and terminate the case if objectives are met. The parent, legal guardian or custodian or child who is over 16 or any other member may request a resolution meeting if in the best interest of the family or child.	

16H.11.a. (Lines 389-401)	Resolution Meeting <ul style="list-style-type: none"> • The purpose of the resolution meeting is to determine whether the goals of the family service plan have been achieved or whether further intervention is necessary. • The case may be discharged for the following reasons: <ul style="list-style-type: none"> ○ Unlikely the family or child will benefit from additional services ○ Family failed to cooperate with the service plan ○ Service provider failed to provide the services ○ Presenting behaviors are resolved. 	
16H.11.b. (Lines 300-304)	<p>Within 7 days after meeting, CM shall provide report for parent, legal guardian, or custodian detailing reasons behind decisions made at the resolution meeting.</p>	
16H.11.c. (Lines 305-306)	Services may be extended to 90 days if the family, child and CM agree.	
16H.11.d. (Lines 307-309)	If referred to CBS by a court or probation officer, services may be extended for additional 90 day periods at the agreement of the court, probation officer, or family.	
16H.12.a. (Lines 412-418)	Report s and documentation of services are not public record. Statements made by family while receiving services must be treated as confidential, may not be used in a school disciplinary proceeding without the written consent of the person making the statement.	
16H.12.b. (Lines 317-319)	CBS members must report suspected abuse or neglect.	
16H.12.c. (Lines 320-324)	Unless indicated to the contrary, information about the case may be shared for treatment and case management purposes.	
16H.13. (Lines 325-335)	Advisory council to the Secretary of EOHHS An advisory council comprising commissioners of DPH, DMH, DCF, DYS, DTA, DPS, DESE , EEC, OCA, Probation, and representatives of various service providers, the Juvenile Court, municipal departments and districts will advise the secretary on the creation, operation and effectiveness of the program.	
16H.14. (Lines 336-338)	Annual report to the legislature Annually, the secretary will report to the joint committee on children, families, and persons with disabilities and the ways and means committees on the progress of the program.	

Section 2 (Lines 445-450)	DESE Grants for truancy prevention programs <p>Amends GL Ch 69 by adding section 1O to create a new grant program in DESE to assist schools with developing certified truancy prevention programs.</p>	
Section 3 (Lines 451-459)	DESE Truancy prevention certification process <p>Amends GL Ch 69 to require DESE to promulgate regulations for the certification process for local truancy prevention programs. Requires that truancy prevention programs evaluate the level of out-of-school support and address conditions that may influence students to become truant.</p>	
Section 4 MGL 119, 39E-39J (Lines 354-355)	Removal of existing CHINS sections which are replaced with new sections <p>Amends General Laws Chapter 119 by repealing Sections 39E to 39J and adding sections 39J to 39X.</p>	
39K (Lines 356-369)	Definitions <ul style="list-style-type: none"> • <i>Child requiring assistance</i> – a child between the ages of 6 and 18 who: <ul style="list-style-type: none"> ○ 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 or legal guardian, thereby interfering with said parent's or legal guardian's ability to adequately care for and protect said child, or ○ Repeatedly fails to obey the lawful and reasonable regulations of his school, or ○ Child who is habitually truant. • ‘<i>Family with children requiring assistance</i>’, 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 • <i>Habitual truant</i> – a school-aged child who persistently and willfully fails to attend school for more than 8 school days in a quarter • <i>Parent</i> – legal guardian or other person legally responsible for child's care. 	
39L (Lines 370-372)	Jurisdiction: Juvenile court has original and exclusive jurisdiction. The jurisdiction of Boston juvenile court shall extend to the territorial limits of Suffolk county.	
39M (Lines 373-379)	Nature of the Proceedings <ol style="list-style-type: none"> 1. Proceedings will not be deemed criminal and will not be entered in the CORI system. The matter will not be labeled a ‘probation case’ for purposes of reporting to the CORI system, even if a probation officer is assigned to assist a child. 2. No record pertaining to the child shall be maintained or remain active after the request for assistance is dismissed. 3. All proceedings under 39K to 39X are closed to the public. 	

39N.1 (Lines 380- 427)	<p>Filing a request for assistance – allegations required</p> <p>A parent or legal guardian, school district, or police officer may initiate the process to determine whether a child or family is in need of assistance. To do this, the petitioner must file a request that alleges:</p> <ul style="list-style-type: none"> • Child meets the requirements based on the child's actions and age (see definitions 39M); • School has taken reasonable steps to improve school attendance and conduct (if filed by a school district); and • Child and family require services • Notice from community-based service program stating termination or ineligibility must also be attached to the request. • Police officers may substitute a statement that the child is at risk of harm for the notice • Parents may substitute a statement of their reasons why a referral would present a risk of harm; court must then immediately review and determine how to best help child and family. 	
39N.2	<p>A police officer, parent or school strict may originate a proceeding.</p>	
39N.3	<p>The clerk filing a request by a parent or police officer will determine whether the child or family has received services from a community program created under section 16H of chapter 6A. If the child or family has participated in a service, the clerk shall attach the conclusions of the previous service, or notice of ineligibility. If the child or family has not participated, the clerk will provide the option of referring the child and family to the program designated by the secretary of the executive office of health human services.</p> <p>The clerk may office to contact the services on a parent's behalf. If the parent declines, the clerk must attach a signed statement saying so, as well as informing the parent of the possibly effects of declining the services.</p> <p>If the clerk receives a request from a police officer, they shall contact the community-based service, create a docket and request that the chief probation officer conduct an inquiry and report to the clerk or judge how to assist the child.</p>	
39O (Lines 580- 615)	<p>Service of process</p> <p>Once a petition is filed, the court may summons the child and parents to appear</p> <p>Where one parent initiates the proceeding, the court provides notice to a parent or guardian who has not signed the request for assistance. The notice must state that if the child is placed with DCF, the parent may be named as a respondent in a child support hearing.</p> <p>A copy of the request for assistance must be included in the notice so that if the child is placed into the custody of the department of children and families, the parent may be named as a respondent in any child support proceedings.</p> <p>Unless waive in writing, the summons must be delivered in person to whom addressed, or left with a person of age, at the residence or business of such person. The police officer shall immediately indicate the time and manner of service to the court.</p> <p>Determination of probable cause that a child and family requires assistance</p> <p>A clerk or judge must hold a hearing not later 15 days after the creation of the docket. Evidence from the petitioner and child, as well as recommendation from the probation officer will be hear by a clerk at the hearing. The clerk shall determine: if there is probable cause for a determination that the child and family needs assistance and if it is in the best interest of the child to proceed to a fact finding hearing. The clerk will than dismiss the request, or refer the child to a probation officer.</p>	

39P (Lines 617- 622)	<p>Scheduling the fact finding hearing</p> <p>The fact finding hearing must be scheduled for a date within 90 days after the request for assistance is filed.</p> <p>Upon agreement of the parent, child, probation officer and petitioner the hearing may be postponed for another 90 days.</p>	
39Q (Lines 450- 466)	<p>Appointment of counsel to child and parent</p> <p>Counsel is appointed to the child when the request for assistance is filed.</p> <p>Parents are informed of their right to counsel, if parents are indigent, counsel is appointed.</p> <p>The parent or guardian will pay the cost of appointed counsel to the extent s/he is able to pay; if the parent is not indigent, the court will assess up to a \$1000 fee against the parent or guardian. If the parent or guardian is able to contribute, they will be required to pay a reasonable amount.</p>	
39R (Lines 641- 698)	<p>Responsibilities of probation – Duration of preliminary inquiry – Data collection</p> <ul style="list-style-type: none"> Upon filing of a request for assistance the clerk assigns a probation officer who shall conduct a preliminary inquiry. The PO has discretion to: <ul style="list-style-type: none"> Refer the family to the community based service program Refer the family directly to services Confer with family and enter into an agreement on actions to be taken to resolve the crisis Present the matter to the court in writing if the family fails to participate. <p>The PO shall gather information including insurance status and coverage as well as other information that may assist the court in evaluating the availability and effectiveness for children.</p> <p>The commissioner shall establish a data collection system that will maintain the privacy of clients serviced, and assist the court in recording data concerning the racial and ethnic identity of the child, insurance coverage, length of time the child receives assistance, the identity of public or private organization that the PO has referred the family to.</p> <ul style="list-style-type: none"> Services will be provided for up to 120 days unless the parent, child, and petitioner voluntarily agree to services for an additional period up to 90 days. At the end of the initial or additional 90-day period, the child and family will either: <ul style="list-style-type: none"> Be dismissed from further participation in the services, or Fact finding hearing will be held to determine whether the child is in need of services. Probation officers shall collect data in which is in substance and format compatible with information gathered by CBSP. Commissioner reports annually to the Child Advocate. 	
39S (Lines 700- 719)	<p>Temporary DCF custody – failure to appear</p> <p>After a hearing, if the court finds a child is unlikely to appear at a disposition hearing, then the court may order the child into the <u>temporary custody</u> of DCF.</p> <p>Such an order may be valid for 15-45 days.</p> <p>A child who is the subject of a request for assistance may not be confined in shackles or similar restraints or in a court lockup facility in connection with any proceedings pursuant to Sections 39K through 39X.</p>	

39T (Lines 719- 724)	<p>Right to withdraw request</p> <p>Upon a showing that the circumstances which brought the matter before the court are resolved, the petitioner may withdraw the request for assistance prior to a disposition hearing. The PO may recommend dismissal on the grounds that it is in the best interest of the child.</p>	
39U (Lines 720- 760)	<p>Fact finding hearing</p> <p>Evidence will be presented at the hearing by the petitioner and the community services CM. The probation officer will present a recommendation to the court. The court will review the notice of termination of services. With the consent of the family the court will review written reports created by the community services program, and any other documentation of services.</p> <p>At the hearing the court will do one of the following:</p> <ul style="list-style-type: none"> • Dismiss the request for assistance because the circumstances have been resolved; • Adjourn the hearing for up to 60 days and order that the child and family return to the community program for additional services or to probation; • Schedule a disposition hearing upon finding that there is probable cause that the child requires assistance. <p>No statements made by the child or family prior to the hearing may be admitted at the fact finding hearing, without the consent of the person making the statement, but they may be received at the disposition hearing.,</p>	

39V (Lines 556- 623)	<p>Disposition hearing</p> <p>1. At disposition hearing the parents have the right to be heard.</p> <p>Petitioner has burden of proof. Allegations must be proven by preponderance of evidence.</p> <p>2. Upon finding a child or family to “require assistance,” the court convenes meeting of probation officer, community program CM, the petitioner, the child’s school, and the parent or guardian to determine the appropriate treatment and services for the family and placement for the child. Those persons present written findings.</p> <p>The court may make one of the following dispositions:</p> <ul style="list-style-type: none"> • Permit the child to remain with the parents, subject to conditions regarding treatment and supervision. • Place the child in the care of a relative, licensed private charitable or childcare agency, or other private organization qualified to care for the child • Place the child in the custody of DCF. <ul style="list-style-type: none"> ○ DCF may not refuse out-of-home placement if court has made required determinations. ○ DCF may not refuse request of child for out-of-home placement if there is a history of abuse and neglect in the home. ○ DCF will direct type and length of out of home placement. ○ Whenever DCF does not carry out the recommendations of the court in the placement of the child DCF must provide written documentation to the court of the new treatment plan. • Require any state agency to offer services to the child and/or family. If the agency cannot perform these services they must provide a written statement as to why to the court and the legislature. • The court may not place the child in the custody of DYS or in a locked facility. <p>3. A child found in need of assistance may not be placed in any locked facility. However, the child may be placed in a facility caring for children adjudicated delinquent if that facility provides therapeutic care.</p>	
39W (Lines 624- 632)	<p>Duration of disposition orders</p> <p>Disposition orders will be in effect for up to 90 days and may be extended for up to 3 additional 90-day periods if the court determines that the goals have not been accomplished and that extension of the disposition order would further the goals. Orders may be extended if child and family are not participating in good faith.</p> <p>Orders expire when the child turns 18.</p>	

39X (Lines 633- 667)	<p>Custodial Protection</p> <p>A child may be taken into custodial protection if the child did not obey a summons or if the law enforcement officer believes the child has run away and will not respond to a summons.</p> <p>The officer must immediately notify the parent after a child is taken into custodial protection.</p> <p>A child must be released to the parent or guardian in the absence of special circumstances. A child may not be placed in a locked facility at any time.</p> <p>A child may be taken to a medical facility for treatment or observation if necessary.</p> <p>After attempting to notify the parent, the officer must do one of the following:</p> <ul style="list-style-type: none"> • Release the child to the custody of the parent or guardian with the promise that the child will be brought to the local Community Based service program. • Take the child directly to the Community Based Service program in the appropriate geographic area. • Release the child to DCF if the child is or has been in the care and custody of the department. • If all else fails, take the child directly to juvenile court. 	
Section 5 (Lines 668-676)	<p>Coordination among state agencies and local</p> <p>Requires that EOHHS, DPH, DMH, DOS, DCF, DYS, DTA, DESE, Probation, juvenile court, municipal police and school departments enter into memoranda of understanding among themselves to <u>coordinate, deliver, and fund the services</u> to children and families who are not eligible for community-based services.</p>	
Section 6 (Lines 677-679)	<p>Pilot program for runaway girls</p> <p>EOHHS directed to pilot a program to address the needs of girls who run away.</p>	
Section 7 (Lines 680-684)	<p>Pilot truancy prevention program</p> <p>DESE is directed to pilot a truancy prevention program using a restorative justice format in at least one urban high school. DESE shall then evaluate the program and report the results to the BOE.</p>	
Section 8 (Lines 685-687)	<p>Coordination of programs</p> <p>EOHHS is to study and report on existing programs and any programs being developed by any department within EOHHS that provides services to children with behavioral, mental or emotional needs. The report shall include a proposal to coordinate such services and pay for said services.</p>	
Section 9 (Lines 688- 690)	<p>High School Drop-out Age – Technical</p> <p>Changes the age from 16 to 18 years old that a child can drop out of high school.</p>	
Section 10 (Lines 691- 369)	<p>High School Drop-out Age – Technical</p> <p>Changes the age from 16 to 18 years old that a child can drop out of high school.</p>	