

SENATE No. 68

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regarding families and children engaged in services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karen E. Spilka	Second Middlesex and Norfolk
Paul J. Donato	35th Middlesex
Richard T. Moore	Worcester and Norfolk
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Susan C. Tucker	Second Essex and Middlesex
Tom Sannicandro	7th Middlesex
David P. Linsky	5th Middlesex
Benjamin Swan	11th Hampden
Ellen Story	3rd Hampshire
Joyce A. Spiliotis	12th Essex
Kay Khan	11th Middlesex
Cleon H. Turner	1st Barnstable
Mark C. Montigny	Second Bristol and Plymouth
Thomas A. Golden, Jr.	16th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02570 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT REGARDING FAMILIES AND CHILDREN ENGAGED IN SERVICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

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

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

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

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

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

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

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

22 Said community-based system shall provide the family and child with immediate responses for
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 Commissioner of the Department of Children and
54 Families, the Commissioner of the Department of Youth Services and the Commissioner of the
55 Department of Mental Health, shall establish a network of child and family service programs
56 throughout the Commonwealth to provide community-based services to all children and families

57 who are at risk of contact with the juvenile justice system or the child protection system, families
58 with children requiring assistance, and children who require assistance. The secretary ~~may~~ enter
59 into contracts with the Community Service Agencies (CSAs), ~~local schools, other local public~~
60 ~~agencies, private organizations, and medical and mental health care providers~~ who shall act as
61 Community-Based Service Centers, to implement the program and provide services which are
62 within their capacity. ~~In awarding the contracts the secretary shall seek to promote efficiency~~
63 ~~and access to existing services.~~ The Community-Based Service Centers shall be ~~encouraged~~ to
64 subcontract with other local providers as needed to provide the full complement of services
65 required under paragraph 8 of this section. ~~(b) The purpose of the community-based services~~
66 program shall be to assist families so that children will be able to continue residing with their
67 families in their home communities; assist families to enable children to continue as students in
68 their community schools; strengthen the relationships between children and families; and provide
69 coordinated, comprehensive, community-based services for children at risk of dropping out of
70 school delinquency, or engaging in behaviors which impede the likelihood of their leading
71 healthy, productive lives.

72 (c) The secretary shall:

- 73 (i) design models for delivery of community-based services by community-based
74 organizations and collaborations of public and private organizations;
- 75 (ii) pilot alternative systems to address the problem of children running away from their
76 parents or legal guardians;
- 77 (iii) develop standards necessary to achieve and maintain on a statewide basis
78 comprehensive and integrated community-based services for children and families;
- 79 (iv) monitor and provide technical assistance to providers of community-based services;

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83 (v) adopt a standard intake screening and assessment tool to evaluate all families and
84 children seeking community-based services which identifies the family's strengths,
85 resources, and service needs such as mental health, behavioral health, or substance abuse
86 treatment, basic family shelter, clothing and food needs, child care needs, health
87 insurance status, legal issues, education placement, and child protection;
88 (vi) create a data collection system for use by programs which maintains the privacy of
89 clients served, assists programs and the executive office of health and human services in
90 addressing the needs of the population to be served, collects information related to,
91 among other things, the insurance status and benefit coverage of clients served, income
92 documentation as needed to apply a sliding fee scale for payment or waiver of payment
93 for services, and other information that may assist the program and the secretary in
94 providing services, identifying service needs and gaps, and evaluating the effectiveness
95 of community-based services.

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

103 (c)
104 (c) The secretary shall issue requests for proposals for the provision of community-based
105 services. Proposals must demonstrate expertise in assisting children and families who are at risk

Deleted: centers, which will provide community-based services

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Deleted: b) Preference in awarding the grants shall be given to the CSA for the service area wherever the experience and resources of the CSA will promote efficiency and increased access to services. In circumstances where, in the judgment of the secretary, the CSA is not the appropriate selection for the Community-Based Services Center, proposals may be submitted by a local school or other local public agency or private organization or medical or mental health care providers.

116 of contact with the juvenile justice system or the child protection system and program staffing
117 which meets the credentialing and caseload criteria as defined by the secretary. Proposals shall
118 also require that applicants submit:

- 119 (i) A plan for development, implementation and coordination of services as required
120 under paragraph 8 of this section for families from public and private providers. ▾
- 121 (ii) A plan for the establishment of a local advisory board which, wherever possible, shall
122 be a subcommittee of the Systems of Care Committee required of all CSAs to focus on
123 the needs of families and children at risk of involvement in the juvenile justice system
124 and the child protection system. The subcommittee shall include: representatives from
125 school districts, police officers, juvenile probation officers, district attorneys, attorneys
126 who represent children and parents, mental health clinicians, behavioral health providers,
127 parents and youth. The committee may also include local religious organizations,
128 representatives of local businesses, higher education, social service agencies, public
129 health agencies and other persons with experience in assisting youth and families in
130 crisis. Membership shall be broadly representative of the racial ethnic and economic
131 diversity of the community. The local advisory boards may, where necessary to facilitate
132 work in communities, create similarly constituted work groups for each municipality in
133 the service area;
- 134 (iii) Periodic evaluation of the success in achieving program goals and a process for
135 making adaptations and improvements based on evaluation information.

136 6. (a) Community-based services shall be available to children between the ages of 6 and 18 who
137 are habitually truant or children between the ages of 6 and 18 who run away from the home of

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140 their parents or legal guardian or refuse to obey the lawful rules of their parents or legal guardian
141 or repeatedly fail to obey school rules and to families whose children engage in such behaviors.

142 (b) Whenever the staff of the program offering community-based services determines that a
143 family seeking or referred for services for a child has significant and complex medical needs
144 which cannot be met by the program or where the child's behavior presents a significant risk of
145 harm to the child himself, the family or the community, the child and family shall be referred to
146 other services pursuant to Secton 5 of this act.

147 (c) Where a youth has been charged with a delinquency offense or is an adjudicated delinquent,
148 eligibility for participation in community-based services shall be determined by the program
149 administrator after a review of the facts surrounding the alleged offense by a team consisting of:
150 a community-based services caseworker, probation officer, family members and the counsel
151 representing the child in the delinquency matter.

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

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

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

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172 *[Consider: – (g) The notification requirements in paragraphs (e) and (f) if the child has sought*
173 *community based services but the parent has not]*

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

176 ↓
177 (b) Employees of the departments of children and families or youth services may make referrals
178 to Community-Based Service Centers as part of a case plan.

Deleted: (b) Pursuant to Section 39R and 39U of Chapter 119, families may be ordered to seek services from a Community-Based Service Center by a probation officer or judge...

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

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181 (d) ~~Except as provided herein, a~~ school administrators shall refer a child to community-based
182 services ~~at the same time that the administrator notifies the student and his parent, guardian, or~~
183 ~~custodian that the student will be expelled for failure to comply with the lawful and reasonable~~
184 ~~rules of the school. After providing the process that is due the student, including an expulsion~~
185 ~~hearing if requested, the school administrator shall consider the outcome of the community based~~

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197 ~~service center referral if the student provides that information to the school.~~ Provided that when
198 a school administrator refers a child for habitually truant behavior, it must be shown that the
199 school, child, and family have completed a department of education certified truancy program, if
200 such a program is available at the school. Whenever a child or family seeks assistance for
201 habitually truant behavior, the program staff shall assist the family in gaining access to the
202 child's school's department of education certified truancy program.

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

- 204 (i) program representatives available to respond to requests for service 24 hours a day, 7
205 days a week;
- 206 (ii) initial response to referral or request for services by a family or child, which includes
207 a meeting to determine the circumstances which resulted in the request or referral within
208 six hours of contact;
- 209 (iii) a plan for stabilization of any crisis, which initiated the referral or request within a
210 reasonable time;
- 211 (iv) assessment and screening of each person requesting services and, if possible, all
212 family members residing in the household using the standard intake tool as established by
213 the secretary pursuant to paragraph 4(c)(v) within seventy-two hours of the referral or
214 request. The person conducting the assessment and screening must note the reasons why
215 any family member was not screened within seventy-two hours of the initial request and
216 must complete the screening process for all family members residing in the household
217 within one week of the initial referral;
- 218 (v) assignment of a case manager to each family upon assessment;
- 219 (vi) creation of a family service plan within ten working days from initial contact, which

Deleted: prior to expelling them for failure to comply with the lawful and reasonable rules of the school or for habitual truancy, and the outcome of the services shall be considered as part of any decision to expel for these violations. Provided that when a school

224 includes: strength-based assessment and statement of family needs presented; needs of
225 the child; needs of the parents, legal guardian or legal custodian; measurable objectives
226 that address the identified needs; services and treatment to be provided by the
227 community-based services program or to which the family and child will be referred,
228 which may include but are not limited to: community, medical, mental health and
229 behavioral health services, assistance with obtaining special education evaluation and
230 services and remedial education services, assistance with insurance coverage issues;
231 recreational services; mediation and family group conferencing. For each service or
232 treatment included, the plan shall contain a statement clearly identifying the type of
233 services or treatment, frequency of services or treatment, location of responsible service
234 providers or staff, and timeframes for achieving the plan objectives. The service plan
235 shall be reviewed and agreed upon by the family before implementation;

236 (vii) periodic review of the family service plan by the case manager and the family to
237 determine whether it is being followed and if it is effective;

238 (viii) intensive crisis counseling for both children and families;

239 (ix) parent training in appropriate skill areas directly related to the needs of the family;

240 (x) data collection in a format as required by the secretary for each referral or request,
241 which protects the privacy of the individuals seeking services while providing a means to
242 insure that information necessary to optimize the likelihood of successful outcome for
243 each person seeking services and to permit the evaluation of the effectiveness of the
244 program;

245 (xi) compilation and dissemination to the general public of information about family
246 support resources and services available in the community;

- 247 (xii) crisis intervention residential placements for children for up to 72 hours;
248 (xiii) voluntary respite residential placement of the child for up to 21 days; and
249 (xiv) mediation or alternative dispute resolution.

Deleted: (xv) The program shall make available to the public information that identifies a variety of community-based educational, social, medical, mental health and behavioral health services available to assist families and children. ...

250
251 Less Prescriptive version of Section 8:

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

253 (i) program representatives available to respond to requests for service 24 hours a day, 7
254 days a week;

255 (ii) initial response to referral or request for services by a family or child and stabilization
256 of any crisis presented within a reasonable time so as to assure the safety and well being
257 of the child and family;

258 (iii) assessment and screening of each person requesting services and, if possible, all
259 family members residing in the household using the standard intake tool as established by
260 the secretary pursuant to paragraph 4(c)(v).

261 (iv) assignment of a case manager to each family;

262 (v) creation of a family service plan, which includes: strength-based assessment and
263 statement of family needs presented; needs of the child; needs of the parents, legal
264 guardian or legal custodian; measurable objectives that address the identified needs;
265 services and treatment to be provided by the community-based services program or to
266 which the family and child will be referred, which may include but are not limited to:
267 community, medical, mental health and behavioral health services, assistance with
268 obtaining special education evaluation and services and remedial education services,

273 assistance with insurance coverage issues; parent training, mediation and family group
274 conferencing. For each service or treatment included, the plan shall contain a statement
275 clearly identifying the type of services or treatment, frequency of services or treatment,
276 location of responsible service providers or staff, and timeframes for achieving the plan
277 objectives. The service plan shall be reviewed and agreed upon by the family before
278 implementation and periodically thereafter;
279 (vi) data collection in a format as required by the secretary for each referral or request,
280 which protects the privacy of the individuals seeking services while providing a means to
281 insure that information necessary to optimize the likelihood of successful outcome for
282 each person seeking services and to permit the evaluation of the effectiveness of the
283 program;
284 (vii) compilation and dissemination to the general public of information about family
285 support resources and services available in the community; _____
286 (viii) crisis intervention residential placements for children for up to 72 hours;
287 (ix) voluntary respite residential placement of the child for up to 21 days; and
288 (x) mediation or alternative dispute resolution, including restorative justice programs
289 which include participation of the child, family, school representatives and local
290 community members.

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

294 (b) Services may be provided for 120 days. After the initial 120 day period families or children
295 and the community-based services program case manager may agree to extend services for up to
296 an additional 90 days. [Consider removing this section so that there is no time limit stated.]

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

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

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

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

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

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

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

325 (d) The case manager shall, in consultation with the family, develop a family service plan which
326 shall be provided to the child and their parent or legal guardian and other family members
327 requiring assistance who are involved in the plan within ten days of the initial referral. Upon
328 receipt of the plan, the child and each family member named in the plan shall accept or reject the
329 services and provisions in writing. Each service provider identified in the plan shall also accept
330 or reject their participation in writing. If the plan is accepted, it shall be implemented
331 immediately. If the child or family is not in agreement with the plan and attempts by the case
332 manager to develop an alternative plan are unsuccessful or when the services required are not
333 available, the child, their parent or guardian or the case manager may request review by the
334 service engagement team who shall assist the case manager, child and family in developing an
335 alternative plan.

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

- 339 (i) advise the case staffing team of the need to make adjustments to the plan; or
- 340 (ii) terminate the case as indicated by successful or substantial achievement of the
341 objectives of the plan.

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

- 345 (i) the family or child is not in agreement with the services or treatment offered; or
- 346 (ii) the family or child does not participate in the services or treatment selected; or
- 347 (iii) a school state agency or private service provider does not provide the services or
348 treatment selected; or
- 349 (iv) the case manager needs assistance in developing an appropriate plan for the provision
350 and funding of services; or
- 351 (v) there is cause to believe that continuation of services is no longer appropriate because
352 the child has complex medical needs which cannot be met by the program or where the
353 child's behavior presents a significant risk of harm to the child himself the family or the
354 community.

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

358 A resolution meeting requested by a parent or legal guardian or child who is over the age of 16
359 must be convened within 7 working days from the date that the case manager receives the
360 request in writing.

361 11. (a) Not more than 110 days after the assessment and screening of a child and family referred
362 to or requesting community-based services, or 10 days prior to any extension of services granted
363 under paragraphs c and d of this section, the case manager shall convene a resolution meeting
364 with the case staffing team to assess whether the goals of the family service plan have been
365 achieved or if further services are in the best interest of the family and child. After the meeting
366 the case manager shall document the resolution of the case as follows:

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

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

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

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

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

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

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

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

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

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

392 (c) Notwithstanding any provision to the contrary, in the absence of specific written directive
393 from the child and or member of the family who is receiving service, information about the case,
394 including interactions with service providers and protected health information services, may be
395 shared among members of the case team as needed to coordinate treatment and provide
396 appropriate case management.

397 13. There shall be an advisory council appointed by the secretary, which shall advise the
398 secretary on creation, operation, and effectiveness of the community-based services
399 program. Members shall include the commissioners or their designees of the departments of
400 public health, mental health, developmental services, children and families, youth services,
401 transitional assistance, elementary and secondary education and public safety, the director of the

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Deleted: arising from the circumstances which brought the family and child to the program unless the child and family waive their privilege or unless a court finds that such inadmissibility would result in substantial harm to the child...

407 office of Medicaid or his designee, the commissioner of probation or his designee, the chief
408 justice of the juvenile court or his designee, a district attorney, members of the bar who represent
409 children in juvenile court proceedings, a designee of the committee ~~for~~ public counsel services,
410 an education advocate, representatives of urban, suburban, and rural municipal police
411 departments and school districts, providers of service to children and families, parents, and at
412 least 2 young adults who have participated in a community-based services program.

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413 14. The secretary shall report annually on February 1 to the joint committee on children, families
414 and persons with disabilities and the house and senate committees on ways and means and the
415 child advocate on the progress of the community-based services program.

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

Deleted: 16. The secretary shall report annually on February 1, to the joint committee on children, families and persons with disabilities, the house and senate committees on ways and means, and the child advocate on the progress of the community-based services program. f

418 Section 1O. ~~The~~ department shall, subject to appropriation, establish a discretionary grant
419 program to assist schools in planning and implementing truancy preventions programs which
420 meet the certification requirements established pursuant to section 1P of Chapter 69.”

Deleted: Within three years of the effective date of this act, t

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

423 Section 1P

424 The Department of Education shall promulgate regulations establishing a truancy prevention
425 program certification process. The regulations shall include requirements that the truancy
426 prevention program evaluate the level of out-of-school support for students and families, and
427 address the conditions that may make students more likely to become truant, including
428 unidentified special needs, bullying and harassment, lack of engagement with school programs

436 and staff. School districts shall establish a truancy prevention program which meets the
437 requirements for certification by the department.▼

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438 SECTION 4:Chapter 119 of the General Laws is hereby amended by repealing Sections 39E to
439 39J, inclusive, and adding the following new sections:

440 Section 39K. Definitions

441 “Child requiring assistance”, a child below the age of eighteen who repeatedly runs away from
442 the home of his parents or legal guardian, or repeatedly fails to obey the lawful and reasonable
443 commands of his parents or legal guardian, thereby interfering with said parent’s or legal
444 guardian’s ability to adequately care for and protect said child, or repeatedly fails to obey the
445 lawful and reasonable regulations of his school, or who is a habitually truant;

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

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

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

454 Section 39L. Jurisdiction

456 The Juvenile court department has original and exclusive jurisdiction over any proceeding
457 commenced under section 39N alleging that a family or child requires assistance, *[This language*
458 *does not remove jurisdiction from the Brookline and Gloucester district courts – Should it?*
459 *Do we need to repeat the existing language re: the jurisdiction of the Boston juvenile court for*
460 *the subject matter of this section shall extend to the territorial limits of Suffolk county]*

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461 Section 39M. Nature of the Proceedings

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

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

468 Section 39N. Request for Assistance

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

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

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

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

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

480 (i) if the request for assistance states that a child is habitually truant, a
481 statement of the actions taken by the school district to comply with its
482 obligations under its truancy prevention program certified pursuant to
483 chapter 69, section 1O and to improve the school attendance of the
484 child. The request for assistance shall also state whether or not the
485 child and his family have participated in the truancy prevention
486 program.; and

487 (ii) if the request for assistance states that a child has repeatedly failed to
488 obey the lawful and reasonable regulations of the school, a statement of
489 the specific steps taken by the school to improve the child's conduct.

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

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

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

494 (b) a parent;

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

3. (a) The petitioner shall attach to the request for assistance the notice of termination of community-based services as provided for in chapter 6A, section 16H(11)(b) or notice of ineligibility as provided for in chapter 6A, section 16H(e). Except as provided ~~in paragraph (b),~~ the clerk shall not accept for filing any request for assistance that does not have attached thereto said notice of termination or ineligibility ~~and a person or agency seeking to file a request for assistance pursuant to this section which does not have attached thereto the notice of termination of community-based services shall be referred by the clerk of the court to a program designated by the secretary of the executive office of health and human services to provide community-based services in the juvenile court district where the child resides.~~

(b) If the petitioner is a police officer, the clerk may accept a written statement of the reasons for the officer's belief that the referral to community-based services prior to filing the request for assistance would present a risk of harm to the child or others in lieu of the notice of termination or ineligibility. The clerk shall then immediately contact the designated community-based services to provide notice that a request for assistance has been filed. If the petitioner is a parent, then the clerk may accept ~~a statement of the parents' reasons for the parents' belief that referral to community based services prior to filing the request for assistance would present a risk of significant harm to the child, family or community. The clerk shall then immediately review the request for assistance and if a referral of the family and child to community based services is likely to result in said harm, then the clerk shall create a docket for the matter, and request that the chief, probation officer or his designee, conduct an immediate inquiry and report to the court with advice on how to proceed to obtain assistance for the child.~~

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528 Section 39O Notice

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

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533 2. In proceedings ~~commenced~~ by a parent the court shall cause a copy of the request for
534 assistance and notice of the time and place to be heard to be provided to that person when the
535 request is filed. The court is not required to issue a summons to ~~either parent in such a case if the~~
536 ~~parents are living together. If the parents are not living together, the court shall cause a copy of~~
537 ~~the request for assistance and a summons to be issued, requiring the child and the parent who did~~
538 ~~not initiate the request for assistance to appear to address the request for assistance at the court at~~
539 ~~a time and place named,~~

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

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

552 Section 39P Scheduling the Fact Finding Hearing

553 The clerk shall set a date for a fact finding hearing no more than 90 days from the date the
554 request for assistance is filed. If at any time prior to the hearing the parents, child, petitioner and
555 probation officer agree, the fact finding hearing may be postponed for an additional 90 days after
556 the expiration of the initial 90 day period.

557 Section 39Q Appointment of Counsel

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

563 2. When the request for assistance is filed, each parent or legal guardian of the child shall be
564 informed that he has the right to participate as a party in any proceeding under sections 39K to
565 39X involving his child and that he has the right to counsel at any hearing or proceeding
566 regarding custody of his child. If said parent or legal guardian is financially unable to retain
567 counsel, the court shall appoint counsel for said parent or legal guardian.

568 3. The court shall determine whether the parent or legal guardian of a child alleged to require
569 assistance is indigent. If the court determines that the parent or legal guardian is not indigent, the
570 court shall assess a \$300 fee against the parent or legal guardian to pay for the cost of counsel
571 appointed for the child. If the parent or legal guardian is determined to be indigent but is still

572 able to contribute toward the payment of some of said costs, the court shall order the parent or
573 legal guardian to pay a reasonable amount toward the cost of counsel appointed for the child.

574 Section 39R Preliminary Inquiry by Probation

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

578 The probation officer in his discretion may:

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

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

585 (c) conduct conferences with the child, the child's family and the petitioner for the
586 purpose of effecting adjustments or agreements which are calculated to resolve the
587 situation which formed the basis of the request for assistance;

588 (d) if the child or his parents fail to participate in good faith with the referrals or
589 conferences arranged by the probation officer or if the probation officer is not able to
590 refer the child or his parents to an appropriate public or private organization which is

591 willing and able to provide appropriate services, the probation officer shall so certify in
592 writing and present these findings to the court.

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

596 (b) The Commissioner of Probation shall establish a data collection system for use by probation
597 officers assisting children pursuant to sections 39K through 39X which maintains the privacy of
598 clients served, assists the court in addressing the needs of the population to be served, collects
599 information related to, among other things the insurance status and coverage of clients served,
600 and other information that may assist the commissioner and the court in evaluating the
601 availability and effectiveness of services for children who are the subjects of requests for
602 assistance pursuant to this section.

603 (c) The Commissioner of Probation shall report annually to the Child Advocate on the assistance
604 provided by probation officers to children and families under Sections 39K to 39X. The report
605 shall be filed on October 1 of each year and shall include for each juvenile court district: the
606 number of children and families receiving assistance, an analysis of the services provided and an
607 identification of gaps in services available, the status or resolution of each request for assistance
608 filed in the previous year, and the numbers of children who are the subject of a request for
609 assistance and also charged with a delinquency matter in the previous year,

610 3. Conferences and referrals arranged under this section may extend for a period not to exceed 90
611 days from the date that the request for assistance was filed, unless the parent, child and petitioner

612 voluntarily agree in writing to a continuation of such conferences or referrals for an additional
613 period not to exceed 90 days from the expiration of the original period. Upon the expiration of
614 the initial 90 day period, or of such additional 90 day period, the request for assistance may be
615 dismissed and the child and his parents discharged from any further obligation to participate in
616 such conferences and referrals, or a fact finding hearing shall be held.

617 Section 39S Custody, Failure to Appear

618 If, after a hearing at which the child is represented by counsel, the court finds that a child alleged
619 to require assistance by reason of repeatedly failing to obey the lawful and reasonable commands
620 of his parent is likely not to appear at the fact finding hearing or at the disposition hearing, the
621 court may place the child in the temporary custody of the Department of Children and Families.

622 An order under this Section shall be valid for no more than 15 days without the child being
623 brought again before the court for a hearing on whether the order should be continued for another
624 15 day period. If the court decides to extend the order, it shall note in writing the detailed
625 reasons for its decision. An order under this section may be in effect for no more than 45 days
626 total.

627 A child who is the subject of a request for assistance may not be confined in shackles or similar
628 restraints or in a court lockup facility in connection with any proceedings pursuant to Sections
629 39K through 39X.

630 Section 39T Withdrawal of Request for Assistance

631 The petitioners may ~~withdraw the request for assistance at any point prior to a hearing to~~
632 determine the disposition of a request for assistance. A probation officer may at any time
633 recommend to the court that the request for assistance be dismissed upon a showing that
634 dismissal is in the best interests of the child.

Deleted: , upon a showing that the circumstances which brought the matter before the court have been resolved, withdraw the request

635 Section 39U Fact Finding Hearing

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

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

648 The court may ~~refer~~ the child and the parent or other person legally responsible for the child to
649 participate in community-based services regardless of whether or not the child and parents have
650 previously used community based services on a voluntary basis. If the designated program

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654 thereafter determines that the case has been successfully resolved, it shall so notify the court, and
655 the court shall dismiss the request for assistance.

656 3. The court shall either:

- 657 (i) dismiss the request for assistance if it is in the best interest of the child (and family?) ▼
- 658 (ii) adjourn the hearing for up to 60 days because it finds that the interests of the child
659 would best be served by continued informal assistance, in which case the court shall, with
660 the consent of the child and his parent, refer the child to a probation officer or refer the
661 child and family to the designated program for additional community-based services
662 assistance; or

- 663 (iii) If the court finds the allegations in the request for assistance have been proved at the
664 fact finding hearing by a preponderance of the evidence, (CPCS THINKS THE
665 STANDARD SHOULD MATCH THAT FOR C7P CASSES – CLEAR AND
666 CONVINCING) it may find that the child and family named in such request for assistance
667 to be a child and family requiring assistance ▼ and schedule a hearing for disposition

668 4. No statements made by a child, family member, or by any other person during the period of
669 inquiries, conferences, or referrals may be admitted at the fact finding hearing without the
670 consent of the child or family member who made the statement, but may be received by the court
671 at the hearing for disposition

672 Section 39V Disposition Conference And Hearing

673 ▼

Deleted: because the circumstances which led to the filing of a request for assistance have been resolved and the court finds that the child and family do not require assistance; ¶

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Deleted: find that the child and family require assistance

Deleted: 1. At any hearing held to determine whether a child and family require assistance, the child and his attorney shall be present and the parents or legal guardian shall be given an opportunity to be heard. The petitioner who files the request for assistance shall bear the burden of presenting evidence proving that the child and family require assistance. If the court finds the allegations in the request for assistance have been proved at the fact finding hearing by a preponderance of the evidence, it may find that the child and family named in such request for assistance to be a child and family requiring assistance.

688 1. Upon making a finding that a child and family require assistance at a fact finding hearing, the
689 court shall convene a conference of the probation officer who conducted the preliminary inquiry,
690 the case manager, if any, from the community-based services program, the petitioner, a
691 representative from the child's school, the child's parent, a representative of the department of
692 children and families, and any other person the court deems helpful in determining the assistance
693 to be offered to the child and family. The persons at the meeting shall present written
694 recommendations to the court to advise the court on appropriate treatment and services for the
695 child and family and appropriate placement for the child and appropriate conditions and
696 limitations of such placement.

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697 At the conference and subsequent hearing on disposition, the child and his attorney shall be
698 present and the parents or legal guardian and the petitioner shall be given an opportunity to be
699 heard. The court may receive evident as to the best disposition from all persons who participated
700 in the conference.

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701 2. The court, taking into consideration those findings and the physical and emotional welfare of
702 the child, may make any of the following orders of disposition:

703 (a) subject to any conditions and limitations the court may prescribe, including provision
704 for medical, psychological, psychiatric, educational, occupational and social services, and
705 for supervision by a court clinic or by any public or private organization providing
706 counseling or guidance services, permit the child to remain with his parents;

710 (b) subject to such conditions and limitations as the court may prescribe, including, but
711 not limited to provisions for those services described in clause (a), place the child in the
712 care of any of the following:

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

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

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

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

727 (i) may not refuse out-of-home placement of a child if the
728 placement is recommended by the court provided that the court
729 has made the written certification and determinations required
730 by said section 29C;

- 731 (ii) may not refuse out of home placement when requested by the
732 child if there is a substantiated history of abuse and neglect in
733 the home by the parent or legal guardian;
- 734 (iii) subject to clauses (i) and (ii), shall direct the type and length of
735 such out-of-home placement;
- 736 (iv) subject to clauses (i) and (ii), shall give due consideration to the
737 recommendations of the court. Whenever the department
738 decides not to carry out the recommendations of the court
739 regarding placement and treatment of the child it shall present
740 the reasons for its decision and the alternative plan for treatment
741 and placement in writing to the court.

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

749 (e) Notwithstanding the provisions of subsection 2 (d) the court may not order the child
750 to be placed in the custody of the department of youth services and may not be placed in
751 a locked facility.

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

756 Section 39W Duration of Assistance

757 1. Any order of disposition under Section 39V shall continue in force for not more than 90 days;
758 provided, however, that the court which entered the order may, after a hearing, extend its
759 duration for up to three additional periods, each such period not to exceed 90 days, if the court
760 finds that the purposes of the order have not been accomplished and that such extension would
761 be reasonably likely to further those purposes. Orders shall be extended upon a finding that the
762 child or family are not participating in good faith.

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

765 Section 39X. Custodial Protection

766 1. (a) A child may be taken into custodial protection for engaging in the behaviors described in
767 section 39N, only if such child has failed to obey a summons issued pursuant to section 390, or if
768 the law enforcement officer initiating limited custody has probable cause to believe that such
769 child has run away from the home of his parents or legal guardian.

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

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

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

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

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

788 (iv) take the child directly to the juvenile court in which the act occasioning the taking
789 into custodial protection occurred, provided that the officer affirms on the record that he

790 or she attempted to exercise the options identified in paragraphs (i), (ii), and (iii) of this
791 subdivision, was unable to exercise these options, and the reasons therefore.

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

794 (e) A child may not be securely detained in a police station or town lockup. At no time shall a
795 child be placed in any locked facility under the supervision of any police department, sheriff
796 department, or department of youth services.

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

800 SECTION 5

801 Notwithstanding any general law to the contrary the secretary of the executive office of health
802 and human services and the commissioners of departments of public health, mental health,
803 developmental services, children and families, youth services and transitional assistance shall
804 enter into memoranda of understanding among themselves and with the department of education,
805 office of the commissioner of probation, the juvenile court, municipal police departments and
806 school districts to provide coordination, delivery, and funding of services to children and
807 families who, pursuant to the provisions of section 16H(7)(b) of chapter 6A of the General Laws,
808 are not eligible for community-based services established pursuant to section 16H of chapter 6A.

809 SECTION 6

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

812 SECTION 7

813 The department of education shall pilot a truancy prevention program using a restorative justice
814 format in at least one urban high school in the Commonwealth. The department shall evaluate
815 the effectiveness of the program in preventing truancy and enhancing the child's academic
816 performance and report the results of that evaluation to the board of education.

817 SECTION 8.

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

820 SECTION 9.

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