

Docket Number: **SD01935**

[SIMILAR MATTER FILED DURING PAST SESSION
SEE NO. OF]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT REGARDING COMMUNITY SERVICES FOR CHILDREN AND FAMILIES ▼

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*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 2004 official edition are hereby
- 2 amended by adding after chapter 6A, section 16G the following new section:
- 3 Section 16H. Community-based crisis intervention services for families and children
- 4 1. *Whereas*, families in the commonwealth whose children are truant, runaway, and
- 5 acting in a fashion that results in their parents inability to adequately care for and protect
- 6 said children are families in crisis; and
- 7 *Whereas*, the issues facing said children and families are complex and the services which
- 8 would best assist such families are not available from a single agency or department of
- 9 the commonwealth and the collaboration among multiple public and private agencies and

offices is required to ensure that all children and families receive the services they need to succeed; and

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

Whereas, services are not consistently available in all communities;

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

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

Said community based system shall provide the family and child with immediate responses for the stabilization of the family as well as to connect the family to additional services in the community through referrals and advocacy. The services provided to the families and children involved shall be provided on a continuum of increasing intensity with the goal of keeping the child out of the juvenile justice system.

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

3. For the purpose of this act, the following words shall have the following meanings:

33 'Child requiring assistance': a child between the ages of six and eighteen who repeatedly
34 runs away from the home of his parents or legal guardian, or repeatedly fails to obey the
35 lawful and reasonable commands of his parents or legal guardian, thereby resulting in
36 said parent's or legal guardian's inability to adequately care for and protect said child, or
37 repeatedly fails to obey the lawful and reasonable regulations of his school, who is
38 habitually truant;

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39 'Secretary': the secretary of the executive office of health and human services;

40 'Habitually truant': a child between the ages of 10 and 18 who is not otherwise excused
41 from attendance in accordance with the lawful and reasonable regulations of his school
42 repeatedly fails to attend school for more than 8 school days in a quarter.

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43 'Family with children requiring assistance', the parents, guardians, siblings and any other
44 relatives or caretakers responsible for a child between the ages of 6 and 18 who need
45 assistance from state, local, or private agencies or providers of social, educational, health,
46 or mental health services in order to adequately provide for the care and protection of the
47 child.

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48
49 4. (a) The secretary shall create a network of child and family service programs
50 throughout the commonwealth to provide community-based crisis intervention services to
51 all children and families who are at risk of contact with the juvenile justice system or the
52 child protection system, families with children requiring assistance, and children who
53 require assistance. The secretary may enter into contracts with private non-profit and
54 public organizations to implement the program and provide services.

(b) The purpose of the community-based crisis intervention services program shall be to assist families in crisis so that children will be able to continue residing with their families in their home communities; assist families to enable children to continue as students in their community schools; strengthen the relationships between children and families; and provide coordinated, comprehensive, community based services for children at risk of dropping out of school, delinquency, or engaging in behaviors which impede the likelihood of their leading healthy productive lives.

(c) The secretary shall:

(i) design models for delivery of community-based crisis intervention services by community based organizations and collaborations of public and private organizations;

(ii) pilot alternative systems to address the problem of children running away from their parents or legal guardians;

(iii) develop standards necessary to achieve and maintain, on a statewide basis, comprehensive and integrated community-based crisis intervention services for children and families;

(iv) monitor and provide technical assistance to providers of community-based crisis intervention services;

(v) adopt a standard intake screening and assessment tool to evaluate all families and children seeking community-based crisis intervention services which identifies family strengths and resource and service needs such as mental health or substance abuse treatment, basic family shelter, clothing, and food needs, child

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care needs, health insurance status, legal issues, education placement and child protection;

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

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5. (a) The secretary shall make grants for the purpose of planning, establishing, operating, coordinating and evaluating programs which will provide community-based crisis intervention services. The secretary shall issue requests for proposals for the provision of community-based crisis intervention services and such requests for proposals shall include among its requirements that applicants submit a plan for:

(i) coordination of direct services for families from public and private providers;

(ii) creation of a local advisory board which is broadly representative of the members of the community concerned for and experienced with the needs of families and children at risk of involvement in the juvenile justice system and the child protection system and includes, but is not limited to: representatives from school districts, police officers, juvenile probation officers, district attorneys, attorneys who represent children, mental health clinicians, parents, youth, local religious organizations, representatives of local businesses, higher education,

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110 social service agencies, public health agencies, and other persons with experience
111 in assisting youth and families in crisis. Membership shall be broadly
112 representative of the racial, ethnic and economic diversity of the community. The
113 local advisory boards shall create a subcommittee for each municipality in the
114 service area which shall consist of a representative from the school department,
115 the police department, a parent, and at least one other member of the advisory
116 board;
117 (iii) periodic evaluation of the success in achieving program goals, a process for
118 making adaptations and improvements based on evaluation information.

119 (b) Subject to appropriation, at least one grant shall be awarded for the operation of a
120 community-based crisis intervention services program in each juvenile court district and,
121 where appropriate, in each juvenile court division, as defined in the General Laws
122 Chapter 218, Section 57. Additionally one grant shall be awarded for a runaway
123 treatment and prevention program in an urban location. Grants may award funding for up
124 to three years, subject to appropriation and based on evidence of effectiveness and the
125 submission of annual reports to the secretary.

126 (c) Proposals may be submitted by a local school or other local public agency or private
127 non-profit organization or medical or mental health care providers. Existing organizations
128 or coalitions of organizations which provide or coordinate social, educational, health, or
129 mental health services to children or families may be given preference in awarding grants
130 wherever additional coordination will promote efficiency and increased access to
131 services. Applicants must demonstrate expertise in dealing with children and families
132 who are at risk of contact with the juvenile justice system or the child protection system

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139 and program staffing which meets the credentialing and caseload criteria as defined by
140 the secretary.

141 6. (a) Community-based crisis intervention services shall be available to children between

142 the ages of ~~10 and 18~~ who are habitually truant or children between the ages of 6 and 18

143 who runaway from the home of their parents or legal guardian, or refuse to obey the

144 lawful rules of their parents or legal guardian, or ~~repeatedly fail~~ to obey school rules, and

145 to families whose children engage in such behaviors. ~~▼~~

146 (b) Participation in community-based crisis intervention services shall be voluntary.

147 Families or children may terminate their involvement at any time. Services may be

148 provided for ~~120~~ days. After the initial ~~120~~ day period, families or children and the

149 community-based crisis intervention services program representative may agree to extend

150 services for up to an additional 90 days.

151 (c) Staff of the program offering community-based crisis intervention services shall be

152 required to report suspected physical or emotional abuse or neglect of a child pursuant to

153 General Laws Chapter 119, Section 51A.

154 7. (a) A child or family may seek assistance from a community-based crisis intervention

155 services ~~program~~ directly and without referral. Children and families may be referred to

156 local programs offering community-based crisis intervention services by a police officer,

157 probation officer, clerk of court, court employee, judge, ~~social worker, employee of the~~

158 ~~departments of social services or youth services,~~ school administrator, pediatrician or

159 other mental health or medical provider treating a child. Provided that, when a school

160 administrator refers a child for habitually truant behavior, it must show that the school,

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child, and family have completed a department of education certified truancy program if such a program is available at the school.

(b) Whenever the staff of the program offering community-based crisis intervention services determines that a family or child seeking or referred for services is experiencing significant family violence, or that the child is in need of protection from abuse or neglect or that the child has significant and complex medical needs which cannot be met by the program, or the child's behavior presents a significant risk of harm to the child or the community then the child and family shall be referred to other services, pursuant to SECTION 5 of the Act which created this Section.

(c) Where a youth has been charged with a delinquency offense ~~or adjudicated delinquent~~, participation in community-based crisis intervention services shall be determined by the program administrator after a review of the facts surrounding the offense by a team consisting of community-based crisis intervention services caseworker, probation officers and the counsel representing the child in the delinquency matter.

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(d) Where the child is in the custody of the department of social services and residing in an out of home placement, participation in community-based crisis intervention services shall be determined by the program administrator after a review of the facts surrounding the placement by a team consisting of the community-based crisis intervention services caseworker, the department of social services caseworker and any counsel representing the child in the matter of placement and custody.

(e) Where a child or family is denied access to community-based crisis intervention services for reasons other than those described in this section the program shall provide a

written explanation of reasons for exclusion and the identification of other community based services and resources available to them.

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

(g) The program shall make available to the public information identifying a variety of community based educational, social, medical and mental health services available to assist families and children.

8. (a) Community-based crisis intervention services shall include but are not limited to:

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

(ii) Initial response to referral or request for services by a family or child which includes a meeting to determine the circumstances which resulted in the request or referral within two hours of contact;

(iii) Stabilization of any crisis which initiated the referral or request within six hours;

(iv) Assessment and screening of each person requesting services and, if possible, all family members residing in the household, using the standard intake tool as established by the secretary pursuant to section 4(c), within seventy-two hours of

referral or request. The person conducting the assessment and screening must note the reasons why any family member was not screened within seventy-two hours of the initial request, and must complete the screening process for all family members residing in the household within one week of the initial referral;

(v) Assignment of a case manager to each family upon assessment;

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(vi) Creation of a family service plan within ten working days from initial contact

which includes: strength based assessment and statement of family needs,

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presented; needs of the child; needs of the parents, legal guardian, or legal custodian; measurable objectives that address the identified problems and needs; services and treatment to be provided by the community-based crisis intervention services or to which the family and child will be referred, which may include, but are not limited to: community medical and mental health services, assistance with obtaining special education evaluation and services and remedial education

services, assistance with insurance coverage issues; recreational services;

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mediation and family group conferencing. For each service or treatment included

the plan shall contain a statement clearly identifying: the type of services or

treatment, frequency of services or treatment, location, responsible service

providers or staff, and timeframes for achieving the plan objectives. The service

plan shall be reviewed by the family before implementation;

(vii) Periodic review of the family service plan by the case manager and the

family to determine whether it is being followed and if it is effective;

(viii) Intensive crisis counseling for both children and families;

- (ix) Parent training in appropriate skill areas directly related to the needs of the family;
- (x) Data collection in a format as required by the secretary for each referral or request which protects the privacy of the individuals seeking services while providing a means to insure that information necessary to optimize the likelihood of successful outcome for each person seeking services and to permit the evaluation of the effectiveness of the program;
- (xi) Compilation and dissemination to the general public of information about family support resources and services available in the community;
- (xii) Crisis intervention residential placements for children for up to 72 hours;
- (xiii) Voluntary respite residential placement of the child for up to 21 days; and
- (xiv) Mediation or alternative dispute resolution.

(b) Services and treatment for families be pursuant to a voluntary agreement of the parent or legal guardian and the child. In the absence of the consent of a parent or legal guardian, respite care may be provided to a child pursuant to the provisions and subject to the limitations of chapter 119, section 23, paragraph G. The program shall advise the parents or legal guardian that they are responsible for contributing to the cost of the child or family services and treatment to the extent of their ability to pay. Programs shall charge and collect fees for services and treatment provided to families and children at rates established by the secretary.

9. (a) The case manager shall request a meeting of the family and child at a time and place that is convenient to them, with a case staffing team to review the family service plan of any family or child if:

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263 (i) The family or child is not in agreement with the services or treatment offered;

264 (ii) The family or child ~~does~~ not participate in the services or treatment selected;

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265 ~~(iii) a school, state agency, or private service provider does not provide the~~

266 ~~services or treatment selected.~~ ▼

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267 ~~(iv) The case manager needs assistance in developing an appropriate plan for the~~

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268 ~~provision and funding of~~ services.

269 (b) The composition of the case staffing team shall be based on the needs of the family

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270 and child. It shall include a representative from the child's school district, and may

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271 include a supervisor of the case manager; representatives from the area of health, mental

272 health, substance abuse, social, or educational services; a representative of the district

273 attorney; a probation officer, the child's attorney, and any person recommended by the

274 child, family, or case manager.

275 (c) The case staffing team shall reach a timely decision on a family service plan which

276 meets the needs of the child and family.

277 (d) Upon receipt of the plan, the child and family shall ~~accept or reject~~ the services and

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278 provisions in writing. ~~Each service provider identified in the plan shall also accept or~~

279 ~~reject their participation in writing.~~ If the plan is accepted, it shall be implemented

280 immediately.

281 (e) The case manager ~~and the family shall~~ be ~~equally~~ responsible for implementing the

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282 plan. The case manager ~~and the family~~ shall periodically review the progress towards

283 achieving the objectives of the plan in order to:

284 (i) Advise the case staffing team of the need to make adjustments to the plan; or

(ii) Terminate the case as indicated by successful or substantial achievement of the objectives of the plan.

(f) The parent or legal guardian or child who is over the age of 16 may convene a disposition meeting of the case staffing team, and any other member of the team may convene a disposition meeting at any time if the member finds that doing so is in the best interest of the family or child. A disposition meeting requested by a parent or legal guardian or child who is over the age of 16 must be convened within 7 days, excluding weekends and legal holidays, after the date the case manager receives the request in writing.

10. (a) 120 days after the assessment and screening of a child and family referred to or requesting community-based crisis intervention services, the case manager shall meet with the family and child, or with the case staffing team if one has been created, in order to determine whether or not services should be extended for an additional 90 days. If the family, child and case manager agree to extend services they shall be extended, if they agree not to extend then the case manager shall convene a disposition meeting.

(b) If services are extended then at the end of the second 90 day period the case manager shall convene a disposition meeting.

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

11. (a) A disposition meeting shall be convened by a case manager so that the family and child and case manager and case staffing team, if one has been created, may determine whether the goals of the family service plan have been achieved or if further intervention

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is in the best interest of the family and child. After the meeting the case manager shall determine the disposition of the case as follows:

- (i) that it is unlikely the family and child will benefit from additional community-based crisis intervention services and the case is discharged, or
- (ii) that the family failed to cooperate with the service plan and the case is discharged, or
- ~~(iii) that the public or private agencies designated in the plan to provide specific services did not provide those services and the case is discharged; or~~
- ~~(iv) that the crisis is resolved and the case is discharged.~~

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(b) Within 7 days after meeting, the case staffing team shall provide the parent or legal guardian with a written report that details the reasons for the decision. The report shall contain a written statement of the circumstances which brought the family and child to the program. The report shall contain a notice, in a form acceptable to the juvenile court, stating that community-based crisis intervention services have terminated and whether or not the case manager believes it is likely that the child ~~and family~~ would benefit from further services.

(c) The report and any documentation of services provided to the family and child shall not be public records. Statements made by the family and child while receiving services from the program shall be treated as confidential and may not be admitted into evidence in any court proceeding arising from the circumstances which brought the family and child to the program, ~~unless the child and family waive confidentiality or~~ unless a court finds that such inadmissibility would result in substantial harm to the child.

343 12. There shall be an advisory council which shall advise the secretary on creation,
344 operation and effectiveness of the community-based crisis intervention services program.
345 Members shall include the commissioners of the departments of public health, mental
346 health, mental retardation, social services, youth services and transitional assistance,
347 education and public safety, the commissioner of probation, the chief justice of the
348 juvenile court, a district attorney, members of the bar who represent children in juvenile
349 court proceedings, a designee of the committee on public counsel services, an education
350 advocate representatives of urban, suburban and rural municipal police departments and
351 school districts, providers of service to children and families, parents, and young adults
352 who have participated in a community-based crisis intervention services program.

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353 13. The secretary shall report annually on February 1, to the joint committee on children,
354 families and persons with disabilities and the house and senate committees on ways and
355 means on the progress of the community-based crisis intervention services program.

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356 SECTION 2: Section 1N of Chapter 69 of the General Laws is hereby amended by
357 adding at the end of subsection (b) the following new paragraph:

358 “grants may be awarded to assist schools in planning and implementing truancy
359 preventions programs which meet the certification requirements established pursuant to
360 section 1O of Chapter 69.”

361 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section
362 1N the following new section:

363 Section 1O

366 The Department of Education shall promulgate regulations establishing a truancy
367 prevention program certification process. School districts ~~shall~~ establish a truancy
368 prevention program which meets the requirements for certification by the department.

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369 SECTION 4

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

372 Section 39K. "Child requiring assistance", a child below the age of eighteen who
373 ~~repeatedly~~ runs away from the home of his parents or legal guardian, or ~~repeatedly fails~~
374 to obey the lawful and reasonable commands of his parents or legal guardian, thereby
375 resulting in said parent's or legal guardian's inability to adequately care for and protect
376 said child, or ~~repeatedly fails to obey~~ the lawful and reasonable regulations of his school,
377 ~~or~~ who is a habitual truant.

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378 "Habitual truant", a child who ~~fails~~ to attend school for more than 8 school days in a
379 quarter ~~without a reasonable excuse~~.

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380 Section 39L.

381 1. The Juvenile court department has original and exclusive jurisdiction over any
382 proceeding involving a child alleged to require assistance.

383 2. On its own motion and at any time during proceedings brought under sections 39K
384 through 39X, the court may substitute a care and protection petition pursuant to Chapter
385 119 section 24 of the General Laws for a request for assistance to determine whether a
386 child requires assistance.

394 3. Proceedings involving a child alleged to require assistance shall originate in the
395 juvenile court district in which the child resides. On motion made on behalf of the child,
396 or by his parent or other person legally responsible for his care, or on the court's motion,
397 and for good cause shown, the court may transfer the proceedings to another district

398 Section 39M Nature of the Proceedings

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

403 2. Notwithstanding the assignment of a probation officer to assist a child who is involved
404 in proceedings conducted pursuant to sections 39K through 39X, the matter shall not be
405 deemed a 'probation case' for purposes of reporting records to the criminal offender
406 record information system pursuant to General Laws chapter 6 section 168A.

407 3. No adjudication pursuant to sections 39K through 39X shall operate as a forfeiture of
408 any right or privilege or disqualify any person from subsequently holding public office or
409 receiving any license granted by public authority.

410 Section 39N.

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

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

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

Deleted: or under the age of 16 if habitual truancy is alleged;

(c) specific acts on which the allegations are based and the time and place they ~~are~~ ~~believed to have~~ occurred;

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(d) when the petitioner is a school district, the request for assistance shall also include a statement of the reasonable steps taken by the responsible school district to improve the school attendance and conduct of the child. The request for assistance shall also state whether or not the child and his family have participated in truancy prevention program certified by the department of education pursuant to chapter 69, section 10;

(e) that the child ~~and family~~ require services.

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

(a) a police officer;

(b) the parent, legal guardian or other person legally responsible for the child's care;

(c) a school district;

3. The petitioner shall attach to the request for assistance the notice of termination of community-based crisis intervention services as provided for in chapter 6A, section 16H(11)(b) or notice of ineligibility as provided for in chapter 6A, section 16H (7)(e).

Except as provided below, the clerk shall not accept for filing any request for assistance that does not have attached thereto said notice of termination or ineligibility.

Any 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 crisis intervention services shall be referred by the clerk of the court to the program designated by the secretary of the executive office of health and human services to provide community-based crisis intervention services in the juvenile court ~~district~~ where the child resides.

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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 crisis intervention 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 crisis intervention services to provide notice that a request for assistance has been filed.

Section 39O

1. On the filing of a request for assistance pursuant to this section, the court may cause a copy of the request for assistance and a summons to be issued, requiring the child and his parent, legal guardian or other person legally responsible for his care, or with whom he is

468 domiciled, to appear at the court at a time and place named to ~~address~~ the request for
469 assistance.

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470 2. In proceedings originated by a parent, legal guardian or other person legally
471 responsible for the child's care the court shall cause a copy of the request for assistance
472 and notice of the time and place to be heard to be served upon any parent of the child or
473 other person legally responsible for the child's care who has not signed the request for
474 assistance, provided that the address of such parent or other person legally responsible is
475 known to the court or is ascertainable by the court. Said copy shall be accompanied by a
476 notice that, in the event that the court deems it necessary to place the child in the care and
477 custody of the department of social services or any other agency, said parent may be
478 named as a respondent in any child support proceeding brought in connection with the
479 child's care.

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480 3. Unless service of the summons required by this section is waived in writing, such
481 summons shall be served by a constable or police officer, either by delivering it
482 personally to the person to whom addressed, or by leaving it with a person of proper age
483 to receive the same, at the place of residence or business of such person, and said
484 constable or police officer shall immediately make return to the court of the time and
485 manner of service.

486 Section 39P

487 The clerk shall set a date for a fact finding hearing no more than 90 days from the date
488 the request for assistance is filed. If at any time prior to the hearing the parents, child,

495 petitioner and probation officer agree, the fact finding hearing may be postponed for an
496 additional 90 days after the expiration of the initial 90 day period.

497 Section 39Q

498 1. The clerk shall appoint counsel ~~for the child when the request for assistance is filed.~~
499 The clerk shall cause a copy of the request for assistance and notice of the time and place
500 ~~of the fact finding hearing~~ to be delivered to counsel at the time of appointment.

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501 ~~2.~~ ~~If a hearing is to be held on an emergency basis, the clerk shall appoint counsel for the child immediately upon scheduling said hearing.~~

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502 ~~2.~~ The court shall determine whether the parent or legal guardian of a child alleged to
503 require assistance is indigent. If the court determines that the parent or legal guardian is
504 not indigent, the court shall assess a \$300 fee against the parent or legal guardian to pay
505 for the cost of counsel ~~appointed for the child.~~ If the parent or legal guardian is
506 determined to be indigent but is still able to contribute toward the payment of some of
507 said costs, the court shall order the parent or legal guardian to pay a reasonable amount
508 toward the cost of counsel ~~appointed for the child.~~

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509 Section 39R

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

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513 The probation officer in his discretion may:

525 (a) refer the family and child to the program designated to provide community-
526 based crisis intervention services for this juvenile court ~~division~~; the probation
527 officer may confer with the provider of community-based crisis intervention
528 services to resolve the situation which formed the basis of the request for
529 assistance;

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

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

536 (d) If the child or his parents fail to participate in good faith in the referrals or
537 conferences arranged by the probation officer the probation officer or if the
538 probation officer is not able to refer the child or his parents to an appropriate
539 public or private organization which is willing and able to provide appropriate
540 services, the probation officer shall so certify in writing and present these findings
541 to the court.

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

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

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

Section 39S

1. If at any time the court determines that there is a likelihood of serious harm to the child and that the child's parent or legal guardian is unwilling, unable or unavailable to adequately care for and protect the child from such harm, the court may issue an emergency order transferring custody of the child to the department of social services or to a licensed child care agency or individual as described in clause 2(b) of section 39V. The transfer of custody shall be for a period not exceeding 72 hours. Upon the entry of

570 the emergency order, notice of the time and place to be heard shall be given to either or
571 both parents, legal guardian, or other person legally responsible for the child's care. The
572 court shall determine whether the parent or legal guardian of the child is indigent. If the
573 court determines that the parent or legal guardian is indigent then counsel shall be
574 appointed to the parents or legal guardian of the child.

575 The court shall, at that hearing, determine whether temporary custody shall continue until
576 the fact finding hearing. The court shall also consider the provisions of section 29C and
577 shall make the written certification and determinations required by said section 29C.

578 If it is shown by clear and convincing evidence that there is a likelihood of serious harm
579 to the child, the child may be placed in the temporary custody of the Department of
580 Social Services pending the hearing to determine whether the child is requires assistance.

581 2. If the court finds probable cause that a child alleged to require assistance by reasons of

582 repeatedly failing to obey the lawful and reasonable commands of his parents or legal
583 guardian is likely not to appear at the fact finding hearing or at the disposition hearing,
584 the court custody of the Department of Social Services. . The court shall determine
585 whether the parent or legal guardian of the child is indigent. If the court determines that
586 the parent or legal guardian is indigent then counsel shall be appointed to the parents or
587 legal guardian of the child.

588

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1. If at any time the court determines by probable cause that there is a likelihood of serious harm to the child, the court may order the child into the emergency limited custody of the Department of Social Services. ¶

A hearing shall be scheduled within 72 hours of any such commitment, and counsel shall be appointed for the parents or legal guardian of said child. ¶

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604 If the court finds by clear and convincing evidence that the child is likely not to appear,
605 the court may place the child in the temporary custody of the Department of Social
606 Services pending disposition.

Deleted: Counsel shall be appointed for the parents or legal guardian of said child. If the court finds by clear and convincing

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607 Section 39T

608 Petitioner shall retain the right to withdraw the request for assistance at any point prior to
609 a hearing to determine the disposition of a request for assistance.

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610 Section 39U

611 1. The court shall hold a fact finding hearing in which it shall receive evidence from the
612 petitioner, the parents or legal guardian, and the community-based crisis intervention
613 services program case manager and the recommendation of the probation officer.

614 2. At the fact finding hearing the court shall review any notice of termination of
615 community-based crisis intervention services. With the consent of the family and child
616 the court shall consider any written reports created by the community-based crisis
617 intervention services which indicate previous actions it has taken with respect to the case.
618 The court shall consider any available documentation of diligent attempts to provide
619 appropriate services and determine whether such efforts or services provided were
620 sufficient.

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621 The court may order the child and the parent or other person legally responsible for the
622 child to participate in community-based crisis intervention services. If the designated

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

635 3. The court shall either

636 (i) dismiss the request for assistance because there is no probable cause to believe
637 that the child and family require assistance;

638 (ii) adjourn the hearing for up to 60 days because it finds that the interests of the
639 child would best be served by continued informal assistance, in which case the
640 court shall, with the consent of the child and his parents or legal guardian, refer
641 the child to a probation officer or order the child and family to return to the
642 designated program for additional community-based crisis intervention services
643 assistance; or

644 (iii) find ~~that~~, the child ~~and family~~ require assistance and schedule a hearing for
645 ~~disposition~~

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646 4. No statements made by a child, family member, or by any other person during the
647 period of inquiries, conferences, or referrals may be ~~admitted~~ at the fact finding hearing
648 ~~without the consent of the child but may be received by the court at the~~ hearing for
649 ~~disposition~~.

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650 Section 39V

651 1. At any hearing held to determine whether a child ~~and family~~ require assistance, ~~the~~
652 child and his attorney shall be present ~~and the parents or legal guardian shall be given an~~

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663 opportunity to be heard. The petitioner who files the request for assistance shall bear the
664 burden of presenting evidence proving that the child and family require assistance. If the
665 court finds the allegations in the request for assistance have been proved at the fact
666 finding hearing by a preponderance of the evidence, it may find that the child and family
667 named in such request for assistance to be a child and family requiring assistance.

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668 2. Upon making a finding that a child and family require assistance, the court shall
669 convene a meeting of the probation officer who conducted the preliminary inquiry, the
670 case manager, if any, from the community-based crisis intervention services program,
671 the petitioner, a representative from the child's school, the child's parent or legal
672 guardian, a representative of the department of social services, and any other person the
673 court deems helpful in determining the assistance to be offered to the child and family.

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674 The persons at the meeting shall present written findings to the court to advise the court
675 on appropriate treatment and services for the child and family and appropriate placement
676 for the child and appropriate conditions and limitations of such placement. The court,
677 taking into consideration those findings and the physical and emotional welfare of the
678 child, may make any of the following orders of disposition:

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

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

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

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

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

702 (c) subject to the provisions of sections 32 and 33 and with such conditions and
703 limitations as the court may recommend, ~~place the child in the custody of the~~
704 department of social services. If the court chooses to ~~place the child in the custody~~
705 ~~of~~ the department then at the same time, the court shall consider the provisions of
706 section 29C and shall make the written certification and determinations required
707 by said section 29C. ~~When the court has placed a child in the custody of the~~
708 department, ~~then the department:~~

709 (i) _____ may not refuse out-of-home placement of a child if the
710 placement is recommended by the court provided that the court

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has made the written certification and determinations required
by said section 29C.

(ii) may not refuse out of home placement when requested by the
child if there is a substantiated history of abuse and neglect in
the home by the parent or legal guardian.

(iii) shall direct the type and length of such out-of-home placement.

(iv) shall give due consideration to the recommendations of the
court. Whenever the department decides not to carry out the
recommendations of the court regarding placement and
treatment of the child it shall present the reasons for its decision
and the alternative plan for treatment and placement in writing
to the court.

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

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Deleted: (d) The department shall direct the type and length of
such out-of-home placement. ¶
(e) The department shall give due consideration to the
recommendations of the court. ¶

Deleted: (e) The department shall give due consideration to the
recommendations of the court. ¶

744 3. Prior to committing the child to the department with a recommendation that the child
745 be placed outside his home, the court shall hold a hearing to determine by clear and
746 convincing evidence if there is a substantial likelihood of serious harm if the child is
747 allowed to remain at home. The court shall appoint counsel for the parents or legal
748 guardian at said hearing.

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

754 Section 39W

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

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

764 Section 39X

Deleted: A child found to require assistance shall not be committed to any county training school. A child found to require

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Deleted: and may, in addition, be referred to the department of youth services for placement in individual foster care. ¶

Deleted: or after the sixteenth birthday of a child named in a request for assistance if the request for assistance alleges that the child is habitually truant. ¶

774 1. (a) A child may be taken into custodial protection for engaging in the behaviors
775 described in section 39N, only if such child has failed to obey a summons issued pursuant
776 to section 390, or if the law enforcement officer initiating limited custody has probable
777 cause to believe that such child has run away from the home of his parents or legal
778 guardian.
779 (b) After an officer has taken a child into custodial protection, the officer shall
780 immediately notify the parent or other person legally responsible for the child's care, or
781 the person with whom he is domiciled, that he is under the custodial protection of the
782 officer.
783 (c) After making every reasonable effort to give notice under paragraph (b), the officer
784 shall:

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

792 (ii) forthwith and with all reasonable speed take the child directly, and without
793 first being taken to the police station house, to the program designated to provide
794 community-based crisis intervention services for the geographic region which

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constitutes the district of the juvenile court department within which the child was taken into custodial protection or in which the child resides, unless the officer determines that it is necessary to question the child, in which case he or she may take the child to a facility designated by the chief administrator of the juvenile court as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the child, to the child's residence and there question him or her for a reasonable period of time; or

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(iii) release the child to a representative of the department of social services, if the law enforcement officer has reason to believe that the child is or has been in the care or custody of such department; or

(iv) take a child in need of crisis intervention or respite services to an approved runaway program or other approved respite or crisis program; or

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

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

829 (e) In determining what is a "reasonable period of time" for questioning a child, the
830 child's age and the presence or absence of his parents or other person legally responsible
831 for his care shall be included among the relevant considerations.

832 (f) A child may not be securely detained in a police station or town lockup. At no time
833 ~~shall~~ a child be placed in any locked facility under the supervision of any police
834 department, sheriff department, or Department of Youth Services.

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835 (g) Notwithstanding the foregoing requirements for placement, any such child who has
836 been taken into ~~custodial protection~~ shall, if necessary, be taken to a medical facility for
837 treatment or observation.

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838 SECTION 5

839 Notwithstanding any general law to the contrary the secretary of the executive office of
840 health and human services and the commissioners of departments of public health, mental
841 health, ~~mental retardation~~, social services, youth services and transitional assistance shall
842 enter into memoranda of understanding among themselves and with the department of
843 education, office of the commissioner of probation, the juvenile court, municipal police
844 departments and school districts to provide coordination, delivery, and funding of
845 services to children and families who, pursuant to the provisions of section 16H(7)(b) of
846 chapter 6A of the General Laws, are not eligible for community-based crisis intervention
847 services established pursuant to section 16H of chapter 6A.

848 SECTION 6

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

853 SECTION 7

854 The ~~department of education~~ shall pilot a truancy prevention program using a ~~restorative~~
855 ~~justice~~ format in at least one urban high school in the commonwealth. The ~~department~~
856 shall evaluate the effectiveness of the program in preventing truancy ~~and enhancing the~~
857 ~~child's academic performance~~ and report the results of that evaluation to the board of
858 education.

859 SECTION 8

860 ~~The secretary of health and human services shall report to the house and senate~~
861 ~~committees on ways and means and the joint committee on children, families and~~
862 ~~person's with disabilities on the various programs and services operated by or being~~
863 ~~developed by the departments within the executive office of health and human services~~
864 ~~which provide community-based or in-home services to children with behavioral,~~
865 ~~emotional, or mental health needs on December 1, 2008. Said report shall include a study~~
866 ~~of current and planned programs including but not limited to the juvenile detention~~
867 ~~alternatives initiative of the department of youth services and the behavioral health~~
868 ~~system of care under development to implement the settlement agreement, dated August~~
869 ~~29, 2006, and entered into by the parties of Rosie D. et al v. Romney, civil action No. 01-~~
870 ~~30199-MAP, filed in the United States District Court in order to provide community-~~
871 ~~based services to children suffering from severe emotional disturbances. The report shall~~
872 ~~propose methods to coordinate overlapping services in order to achieve cost effectiveness~~
873 ~~and efficiency in the use of the resources of the commonwealth and to offer better~~
874 ~~services to children and families in need .~~

875 ▼

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

The undersigned, citizen of _____, respectfully petitions for the passage of the accompanying bill and for legislation.

AN ACT REGARDING CHILDREN AND FAMILIES REQUIRING ASSISTANCE

Karen Spilka(KES0) Paul Donato(PJD1)	Second Middlesex and Norfolk Thirty-fifth Middlesex