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[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 services for families and children

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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 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:

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

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

42 'Habitually truant': a child ~~between the ages of 6 and 18~~ who ~~is not otherwise excused~~
43 ~~from attendance in accordance with the lawful and reasonable regulations of his school~~
44 ~~repeatedly~~ fails to attend school for more than 8 school days in a quarter.

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Deleted: or a child between the ages of six and sixteen

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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~~
47 ~~assistance from state, local, or private agencies or providers of social, educational, health,~~
48 ~~or mental health services in order to adequately provide for the care and protection of the~~
49 ~~child.~~

50

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

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

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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;

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

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

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

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82 (v) adopt a standard intake screening and assessment tool to evaluate all families
83 and children seeking community-based services which identifies family strengths
84 and resource and service needs such as mental health or substance abuse
85 treatment, basic family shelter, clothing, and food needs, child care needs, health
86 insurance status, legal issues, education placement and child protection;

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(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 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 services.

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The secretary shall issue requests for proposals for the provision of community-based services and such requests for proposals shall include among its requirements that applicants submit a plan for:

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- (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, social service agencies, public health agencies, and other persons with experience in assisting youth and families in crisis. Membership shall be broadly

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123 representative of the racial, ethnic and economic diversity of the community. The
124 local advisory boards shall create a subcommittee for each municipality in the
125 service area which shall consist of a representative from the school department,
126 the police department, ~~a parent,~~ and at least one other member of the advisory
127 board;

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128 (iii) periodic evaluation of the success in achieving program goals, a process for
129 making adaptations and improvements based on evaluation information.

130 (b) Subject to appropriation, at least one grant shall be awarded for the operation of a
131 community-based ~~services program in each juvenile court district and, where appropriate,~~
132 in each juvenile court division, as defined in the General Laws Chapter 218, Section 57.

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133 ~~Additionally one grant shall be awarded for a runaway treatment and prevention program,~~
134 in an urban location. Grants may award funding for up to three years, subject to
135 appropriation and based on evidence of effectiveness and the submission of annual
136 reports to the secretary.

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137 (c) Proposals may be submitted by a local school or other local public agency or private
138 non-profit organization or medical or mental health care providers. Existing organizations
139 or coalitions of organizations which provide or coordinate social, educational, health, or
140 mental health services to children or families may be given preference in awarding grants
141 wherever additional coordination will promote efficiency and increased access to
142 services. Applicants must demonstrate expertise in dealing with children and families
143 who are at risk of contact with the juvenile justice system or the child protection system
144 and program staffing which meets the credentialing and caseload criteria as defined by
145 the secretary.

152 6. (a) Community-based services shall be available to children between the ages of 10
153 and 18 who are habitually truant or children between the ages of 6 and 18 who runaway
154 from the home of their parents or legal guardian, or refuse to obey the lawful rules of

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155 their parents or legal guardian, or repeatedly fail to obey school rules, and to families
156 whose children engage in such behaviors.

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157 (b) Participation in community-based services shall be voluntary. Families or children
158 may terminate their involvement at any time. Services may be provided for 120 days.

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159 After the initial 120 day period, families or children and the community-based services
160 program representative may agree to extend services for up to an additional 90 days.

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161 (c) Staff of the program offering community-based services shall be required to report
162 suspected physical or emotional abuse or neglect of a child pursuant to General Laws
163 Chapter 119, Section 51A.

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164 7. (a) A child or family may seek assistance from a community-based services program
165 directly and without referral. Children and families may be referred to local programs

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166 offering community-based services by a police officer, probation officer, clerk of court,
167 court employee, judge, social worker, employee of the departments of social services or

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168 youth services, school administrator, pediatrician or other mental health or medical
169 provider treating a child. Provided that, when a school administrator refers a child for
170 habitually truant behavior, it must show that the school, child, and family have completed
171 a department of education certified truancy program if such a program is available at the
172 school.

173 (b) Whenever the staff of the program offering community-based services determines that
174 a family or child seeking or referred for services is experiencing significant family

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188 violence, or that the child is in need of protection from abuse or neglect or that the child
189 has significant and complex medical needs which cannot be met by the program, or the
190 child's behavior presents a significant risk of harm to the child or the community then the
191 child and family shall be referred to other services, pursuant to SECTION 5 of the Act
192 which created this Section.

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

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

204 (e) Where a child or family is denied access to community-based services for reasons
205 other than those described in this section the program shall provide a written explanation
206 of reasons for exclusion and the identification of other community based services and
207 resources available to them.

208 (f) When a child or family is denied services pursuant to this section the program shall
209 contact the family in person or by telephone within two weeks after the denial decision to
210 determine if the other appropriate services have been obtained and whether or not

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community-based 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 services and listing the reasons for ineligibility.

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(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.

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

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(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, 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 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; 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

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269 of successful outcome for each person seeking services and to permit the
270 evaluation of the effectiveness of the program;
271 (xi) Compilation and dissemination to the general public of information about
272 family support resources and services available in the community;
273 (xii) Crisis intervention residential placements for children for up to 72 hours;
274 (xiii) Voluntary respite residential placement of the child for up to 21 days; and
275 (xiv) Mediation or alternative dispute resolution.

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

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

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

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

289 (iii) a school, state agency, or private service provider does not provide the
290 services or treatment selected. . . .

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294 (iv) The case manager needs assistance in developing an appropriate plan for the
295 provision and funding of services.

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296 (b) The composition of the case staffing team shall be based on the needs of the family
297 and child. It shall include a representative from the child's school district, and may
298 include a supervisor of the case manager; representatives from the area of health, mental
299 health, substance abuse, social, or educational services; a representative of the district
300 attorney; a probation officer, the child's attorney, and any person recommended by the
301 child, family, or case manager.

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302 (c) The case staffing team shall reach a timely decision on a family service plan which
303 meets the needs of the child and family.

304 (d) Upon receipt of the plan, the child and family shall accept or reject the services and
305 provisions in writing. Each service provider identified in the plan shall also accept or
306 reject their participation in writing. If the plan is accepted, it shall be implemented
307 immediately.

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308 (e) The case manager and the family shall be equally responsible for implementing the
309 plan. The case manager and the family shall periodically review the progress towards
310 achieving the objectives of the plan in order to:

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

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

314 (f) The parent or legal guardian or child who is over the age of 16 may convene a
315 disposition meeting of the case staffing team, and any other member of the team may
316 convene a disposition meeting at any time if the member finds that doing so is in the best

323 interest of the family or child. A disposition meeting requested by a parent or legal
324 guardian or child who is over the age of 16 must be convened within 7 days, excluding
325 weekends and legal holidays, after the date the case manager receives the request in
326 writing.

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

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

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

338 11. (a) A disposition meeting shall be convened by a case manager so that the family and
339 child and case manager and case staffing team, if one has been created, may determine
340 whether the goals of the family service plan have been achieved or if further intervention
341 is in the best interest of the family and child. After the meeting the case manager shall
342 determine the disposition of the case as follows:

343 (i) that it is unlikely the family and child will benefit from additional community-
344 based services and the case is discharged, or

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(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 services have terminated and whether or not the case

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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.

12. There shall be an advisory council which shall advise the secretary on creation, operation and effectiveness of the community-based services program. Members shall include the commissioners of the departments of public health, mental health, ~~mental retardation~~, social services, youth services and transitional assistance, education and public safety, the commissioner of probation, the chief justice of the juvenile court, a district attorney, members of the bar who represent children in juvenile court

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377 proceedings, a designee of the committee on public counsel services, an education
378 advocate representatives of urban, suburban and rural municipal police departments and
379 school districts, providers of service to children and families, parents, and young adults
380 who have participated in a community-based services program.

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

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

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

389 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section
390 1N the following new section:

391 Section 1O

392 The Department of Education shall promulgate regulations establishing a truancy
393 prevention program certification process. School districts shall establish a truancy

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394 prevention program which meets the requirements for certification by the department.

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395 SECTION 4

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

398 Section 39K. “Child requiring assistance”, a child below the age of eighteen who

399 repeatedly runs away from the home of his parents or legal guardian, or repeatedly fails

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407 to obey the lawful and reasonable commands of his parents or legal guardian, thereby
408 resulting in said parent's or legal guardian's inability to adequately care for and protect
409 said child, or ~~repeatedly fails to obey~~ the lawful and reasonable regulations of his school,
410 ~~or~~ who is a habitual truant.

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

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413 Section 39L.

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

416 2. On its own motion and at any time during proceedings brought under sections 39K
417 through 39X, the court may substitute a care and protection petition pursuant to Chapter
418 119 section 24 of the General Laws for a request for assistance to determine whether a
419 child requires assistance.

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

424 Section 39M Nature of the Proceedings

425 1. Proceedings pursuant to sections 39K to 39X, inclusive, shall not be deemed criminal
426 proceedings and any record of these proceedings, including the filing of a request for

430 assistance and creation of a docket, shall not be entered in the Criminal Offender Record
431 Information System.

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

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

439 Section 39N.

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

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

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

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(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 ~~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.

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481 Any person or agency seeking to file a request for assistance pursuant to this section
482 which does not have attached thereto the notice of termination of community-based
483 services shall be referred by the clerk of the court to the program designated by the
484 secretary of the executive office of health and human services to provide community-
485 based services in the juvenile court district where the child resides.
486 If the petitioner is a police officer, the clerk may accept a written statement of the reasons
487 for the officer's belief that the referral to community-based services prior to filing the
488 request for assistance would present a risk of harm to the child or others in lieu of the
489 notice of termination or ineligibility. The clerk shall then immediately contact the
490 designated community-based services to provide notice that a request for assistance has
491 been filed.

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492 Section 39O

493 1. On the filing of a request for assistance pursuant to this section, the court may cause a
494 copy of the request for assistance and a summons to be issued, requiring the child and his
495 parent, legal guardian or other person legally responsible for his care, or with whom he is
496 domiciled, to appear at the court at a time and place named to address the request for
497 assistance.

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498 2. In proceedings originated by a parent, legal guardian or other person legally
499 responsible for the child's care the court shall cause a copy of the request for assistance
500 and notice of the time and place to be heard to be served upon any parent of the child or
501 other person legally responsible for the child's care who has not signed the request for
502 assistance, provided that the address of such parent or other person legally responsible is

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514 known to the court or is ascertainable by the court. Said copy shall be accompanied by a
515 notice that, in the event that the court deems it necessary to place the child in the care and
516 custody of the department of social services or any other agency, said parent may be
517 named as a respondent in any child support proceeding brought in connection with the
518 child's care.

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

525 Section 39P

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

530 Section 39Q

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

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537 ~~2.~~ The court shall determine whether the parent or legal guardian of a child alleged to
538 require assistance is indigent. If the court determines that the parent or legal guardian is
539 not indigent, the court shall assess a \$300 fee against the parent or legal guardian to pay
540 for the cost of counsel **appointed for the child**. If the parent or legal guardian is
541 determined to be indigent but is still able to contribute toward the payment of some of
542 said costs, the court shall order the parent or legal guardian to pay a reasonable amount
543 toward the cost of counsel **appointed for the child**.
544
545 Section 39R

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

549 The probation officer in his discretion may:

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

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

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

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

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

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

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

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

616 2. If the court finds probable cause that a child alleged to require assistance by reasons of
617 ~~repeatedly failing~~ to obey the lawful and reasonable commands of his parents or legal
618 guardian is likely not to appear at the fact finding hearing or at the ~~disposition~~ hearing,
619 the court custody of the Department of Social Services. ~~. The court shall determine~~
620 ~~whether the parent or legal guardian of the child is indigent. If the court determines that~~
621 ~~the parent or legal guardian is indigent then counsel shall be appointed to the parents or~~
622 ~~legal guardian of the child.~~

623

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

627 Section 39T

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

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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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651 Section 39U

652 1. The court shall hold a fact finding hearing in which it shall receive evidence from the
653 petitioner, ~~the parents or legal guardian,~~ and the community-based ~~services~~ program case
654 manager and the recommendation of the probation officer.

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655 2. ~~At the fact finding hearing~~ the court shall review any notice of termination of
656 community-based ~~services~~. With the consent of the family and child the court shall
657 consider any written reports created by the community-based ~~services~~ ~~which indicate~~
658 previous actions it has taken with respect to the case. The court shall consider any
659 available documentation of diligent attempts to provide appropriate services and
660 determine whether such efforts or services provided ~~were~~ sufficient.

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661 The court may order the child and the parent or other person legally responsible for the
662 child to participate in community-based ~~services~~. If the designated program thereafter
663 determines that the case has been successfully resolved, it shall so notify the court, and
664 the court shall dismiss the request for assistance.

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665 3. The court shall either

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

668 (ii) adjourn the hearing for up to 60 days because it finds that the interests of the
669 child would best be served by continued informal assistance, in which case the
670 court shall, with the consent of the child and his parents or legal guardian, refer

679 the child to a probation officer or order the child and family to return to the
680 designated program for additional community-based services assistance; or

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681 (iii) find ~~that~~ the child ~~and family~~ require assistance and schedule a hearing for
682 ~~disposition~~

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

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687 Section 39V

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

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695 2. Upon ~~making a finding that~~ a child ~~and family~~ ~~require~~ assistance, the court shall
696 convene a meeting of the probation officer who conducted the preliminary inquiry, ~~the~~
697 case manager, ~~if any~~, from the community-based services program, the petitioner, ~~a~~
698 ~~representative from~~ the child's school, ~~the child's~~ parent or legal guardian, ~~a~~
699 ~~representative of the department of social services, and any other person the court deems~~

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helpful in determining the assistance to be offered to the child and family. The persons at the meeting shall present written findings to the court to advise the court on appropriate treatment and services for the child and family and appropriate placement for the child and appropriate conditions and limitations of such placement. The court, taking into consideration those findings and the physical and emotional welfare of the child, may make any of the following orders of disposition:

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

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

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

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

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

741 (c) subject to the provisions of sections 32 and 33 and with such conditions and
742 limitations as the court may recommend, ~~place the child in the custody of the~~
743 department of social services. If the court chooses to ~~place the child in the custody~~
744 ~~of~~ the department then at the same time, the court shall consider the provisions of
745 section 29C and shall make the written certification and determinations required
746 by said section 29C. ~~When the court has placed a child in the custody of the~~
747 department, ~~then the department:~~

748 (i) _____ may not refuse out-of-home placement of a child if the
749 placement is recommended by the court provided that the court
750 has made the written certification and determinations required
751 by said section 29C.

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

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

756 (iv) _____ shall give due consideration to the recommendations of the
757 court. ~~Whenever the department decides not to carry out the~~
758 ~~recommendations of the court regarding placement and~~
759 ~~treatment of the child it shall present the reasons for its decision~~

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766 and the alternative plan for treatment and placement in writing
767 to the court.

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

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. ¶

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

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

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

Deleted: committed to an institution

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

799 Section 39W

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

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

809 Section 39X

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

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

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. [§](#)

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

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

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840 (ii) forthwith and with all reasonable speed take the child directly, and without
841 first being taken to the police station house, to the program designated to provide
842 community-based ~~services~~ for the geographic region which constitutes the district
843 of the juvenile court department within which the child was taken into ~~custodial~~
844 ~~protection or in which the child~~ resides, unless the officer determines that it is
845 necessary to question the child, in which case he or she may take the child to a
846 facility designated by the chief administrator of the juvenile court as a suitable
847 place for the questioning of children or, upon the consent of a parent or other
848 person legally responsible for the care of the child, to the child's residence and
849 there question him or her for a reasonable period of time; or

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

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

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

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

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

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

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

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878 SECTION 5

883 Notwithstanding any general law to the contrary the secretary of the executive office of
884 health and human services and the commissioners of departments of public health, mental
885 health, mental retardation, social services, youth services and transitional assistance shall
886 enter into memoranda of understanding among themselves and with the department of
887 education, office of the commissioner of probation, the juvenile court, municipal police
888 departments and school districts to provide coordination, delivery, and funding of
889 services to children and families who, pursuant to the provisions of section 16H(7)(b) of
890 chapter 6A of the General Laws, are not eligible for community-based services
891 established pursuant to section 16H of chapter 6A.

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892 SECTION 6

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

895 SECTION 7

896 The department of education shall pilot a truancy prevention program using a restorative
897 justice format in at least one urban high school in the commonwealth. The department
898 shall evaluate the effectiveness of the program in preventing truancy and enhancing the
899 child's academic performance and report the results of that evaluation to the board of
900 education.

Deleted: secretary of the executive office of health and human
servicesdepartment of education

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901 SECTION 8

902 The secretary of health and human services shall report to the house and senate
903 committees on ways and means and the joint committee on children, families and
904 person's with disabilities on the various programs and services operated by or being
905 developed by the departments within the executive office of health and human services

911 which provide community-based or in-home services to children with behavioral,
912 emotional, or mental health needs on December 1, 2008. Said report shall include a study
913 of current and planned programs including but not limited to the juvenile detention
914 alternatives initiative of the department of youth services and the behavioral health
915 system of care under development to implement the settlement agreement, dated August
916 29, 2006, and entered into by the parties of Rosie D. et al v. Romney, civil action No. 01-
917 30199-MAP, filed in the United States District Court in order to provide community-
918 based services to children suffering from severe emotional disturbances. The report shall
919 include, but not be limited to: i) a proposal to coordinate overlapping services in order to
920 achieve cost effectiveness and efficiency in the use of the resources of the commonwealth
921 and to offer better services to children and families in need, and ii) a proposal coordinate
922 private insurance, Masshealth, and sole state funded programs to ensure the provision of
923 needed services to children who are not eligible for Medicaid funded services..

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