

S113

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



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT REGARDING FAMILIES AND CHILDREN ENGAGED IN SERVICES

Deleted: Docket Number: SD01935

Deleted: CHILDREN AND FAMILIES

Deleted: REQUIRING ASSISTANCE

*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

Deleted: crisis intervention

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

Deleted: results in

Deleted: in

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 and child protection systems.

The system shall include a mechanism for the collection and analysis of information which will enable the Commonwealth to evaluate the effectiveness of services and to identify gaps in services.

Deleted: crisis intervention

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

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

40 ‘Child requiring assistance’: a child ~~between the ages of six and eighteen who repeatedly~~
41 runs away from the home of his parents or legal guardian, or ~~repeatedly fails~~ to obey the
42 lawful and reasonable commands of his parents or legal guardian, thereby ~~interfering~~
43 ~~with~~ said parent’s or legal guardian’s ~~ability to adequately care for and protect said child,~~
44 or ~~repeatedly fails to obey~~ the lawful and reasonable regulations of his school, ~~or,~~ who is
45 habitually truant;

Deleted: below the age of

Deleted: persistently

Deleted: persistently refuses

Deleted: resulting in

Deleted: in

Deleted: persistently violates

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

46 ‘Secretary’: the secretary of the executive office of health and human services;

47 ‘Habitually truant’: a child ~~between the ages of 6 and 18 who is not otherwise excused~~
48 ~~from attendance in accordance with the lawful and reasonable regulations of his school,~~
49 fails to attend school for more than 8 school days in a quarter.

Deleted: persistently and willfully

50 ~~‘Family with children requiring assistance’, the parents, guardians, siblings and any other~~
51 ~~relatives or caretakers responsible for a child between the ages of 6 and 18 who need~~
52 ~~assistance from state, local, or private agencies or providers of social, educational, health,~~
53 ~~mental health, or behavioral health services in order to adequately care for and protect the~~
54 ~~child.~~

55

56 4. (a) The secretary, ~~using the resources of the office of children, youth and families,~~
57 shall create a network of child and family service programs throughout the
58 commonwealth to provide community-based ~~services to all children and families who are~~

Deleted: crisis intervention

68 at risk of contact with the juvenile justice system or the child protection system, families
69 with children requiring assistance, and children who require assistance. The secretary
70 may enter into contracts with private, ~~and public~~ organizations to implement the program
71 and provide services.

Deleted: non-profit

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

Deleted: crisis intervention

Deleted: in crisis

79 (c) The secretary shall:

80 (i) design models for delivery of community-based ~~services~~ by community based
81 organizations and collaborations of public and private organizations;

Deleted: crisis intervention

82 ~~ii~~ pilot alternative systems to address the problem of children running away
83 from their parents or legal guardians;

Deleted: ¶

Deleted: for

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

Deleted: crisis intervention

87 (iv) monitor and provide technical assistance to providers of community-based
88 ~~services~~;

Deleted: crisis intervention

89 (v) adopt a standard intake screening and assessment tool to evaluate all families
90 and children seeking community-based ~~services~~ which identifies family strengths

Deleted: crisis intervention

100 and resource and service needs such as mental health or substance abuse
101 treatment, basic family shelter, clothing, and food needs, child care needs, health
102 insurance status, legal issues, education placement and child protection;
103 (vi) create a data collection system for use by programs which maintains the
104 privacy of clients served, assists programs and the executive office of health and
105 human services in addressing the needs of the population to be served, collects
106 information related to, among other things the insurance status and benefit
107 coverage of clients served, income documentation as needed to apply a sliding fee
108 scale for payment or waiver of payment for services, and other information that
109 may assist the program and the secretary in providing services, identifying service
110 needs and gaps and evaluating the effectiveness of community-based services.

Deleted: serves

Deleted: crisis intervention

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

Deleted: crisis intervention

Deleted: crisis intervention

116 (i) coordination of direct services for families from public and private providers;
117 (ii) creation of a local advisory board which is broadly representative of the
118 members of the community concerned for and experienced with the needs of
119 families and children at risk of involvement in the juvenile justice system and the
120 child protection system and includes, but is not limited to: representatives from
121 school districts, police officers, juvenile probation officers, district attorneys,
122 attorneys who represent children, mental health clinicians, behavioral health

Deleted: providers

128 providers, parents, youth, local religious organizations, representatives of local
129 businesses, higher education, social service agencies, public health agencies, and
130 other persons with experience in assisting youth and families in crisis.

Deleted: troubled

131 Membership shall be broadly representative of the racial, ethnic and economic
132 diversity of the community. The local advisory boards shall create a
133 subcommittee for each municipality in the service area which shall consist of a
134 representative from the school department, the police department, two parents,
135 and at least one other member of the advisory board;

Deleted: and

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

138 (b) Subject to appropriation, at least one grant shall be awarded for the operation of a
139 community-based services program in each geographic region defined as a service area
140 for the delivery of behavioral health services to children entitled to care pursuant to

Deleted: crisis intervention

141 1905(a)(4)(B) of the Social Security Act. Additionally two grants shall be awarded for
142 runaway treatment and prevention programs one in an urban location and one in a rural
143 location. Grants may award funding for up to three years, subject to appropriation and
144 based on evidence of effectiveness and the submission of annual reports to the secretary.

Deleted: in each juvenile court district and, where appropriate, in each juvenile court division, as defined in the General Laws Chapter 218, Section 57.

Deleted: s

Deleted: for at least one truancy prevention program

Formatted: No underline

Formatted: No underline

Deleted: and one

Deleted: , each

Deleted: non-profit

145 (c) Proposals may be submitted by a local school or other local public agency or private
146 organization or medical or mental health care providers. Existing organizations or
147 coalitions of organizations which provide or coordinate social, educational, health, or
148 mental health services to children or families may be given preference in awarding grants
149 wherever additional coordination will promote efficiency and increased access to
150 services. Applicants must demonstrate expertise in dealing with children and families

162 who are at risk of contact with the juvenile justice system or the child protection system
163 and program staffing which meets the credentialing and caseload criteria as defined by
164 the secretary.

165 6. (a) Community-based services shall be available to children between the ages of 10
166 and 18 who are habitually truant or children between the ages of 6 and 18 who runaway
167 from the home of their parents or legal guardian, or refuse to obey the lawful rules of
168 their parents or legal guardian, or repeatedly fail to obey school rules, and to families
169 whose children engage in such behaviors.

170 (b) Participation in community-based services shall be voluntary. Families or children
171 may terminate their involvement at any time. Services may be provided for 120 days.
172 After the initial 120 day period, families or children and the community-based services
173 program representative may agree to extend services for up to an additional 90 days.

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

177 7. (a) A child or family may seek assistance from a community-based services program
178 directly and without referral. Children and families may be referred to local programs
179 offering community-based services by a police officer, social worker, employee of the
180 departments of social services or youth services, school administrator, pediatrician or
181 other mental health or medical provider treating a child. Provided that, when a school
182 administrator refers a child for habitually truant behavior, it must show that the school,
183 child, and family have completed a department of education certified truancy program if
184 such a program is available at the school. Whenever a child or family seeks assistance

Deleted: crisis intervention

Deleted: 6

Deleted: 16

Deleted: habitually fail

Deleted: ¶

Deleted: crisis intervention

Deleted: 90

Deleted: 90

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: , probation officer, clerk of court, court employee, judge

Deleted: ,

for habitually truant behavior the program staff shall assist the family in gaining access to the child's school's department of education certified truancy program.

(b) Whenever the staff of the program offering community-based services determines that a family or child seeking or referred for services where 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 himself, the family, 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, eligibility for participation in community-based services shall be determined by the program administrator after a review of the facts surrounding the offense by a team consisting of community-based services caseworker, probation officers, family members and the counsel representing the child in the delinquency matter.

(d) Where the child is in the custody of the department of social services and residing in an out of home placement, eligibility for participation in community-based 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 services caseworker, the department of social services caseworker, family members 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 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.

Deleted: crisis intervention

Deleted: is experiencing significant family violence, or that the child is in need of protection from abuse or neglect or where that

Deleted: that

Deleted: or convicted of

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: crisis intervention

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

Deleted: crisis intervention

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

Deleted: crisis intervention

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

Deleted: crisis intervention

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

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

Deleted: two

247 (iii) Plan for stabilization of any crisis which initiated the referral or request within
248 a reasonable time;

Deleted:)

Deleted: S

Deleted: six hours

249 (iv) Assessment and screening of each person requesting services and, if possible,
250 all family members residing in the household, using the standard intake tool as
251 established by the secretary pursuant to section 4(c), within seventy-two hours of
252 referral or request. The person conducting the assessment and screening must
253 note the reasons why any family member was not screened within seventy-two

261 hours of the initial request, and must complete the screening process for all family
262 members residing in the household within one week of the initial referral;
263 (v) Assignment of a case manager to each family upon assessment;
264 (vi) Creation of a family service plan within ten working days from initial contact
265 which includes: strength based assessment and statement of family needs,
266 presented; needs of the child; needs of the parents, legal guardian, or legal
267 custodian; measurable objectives that address the identified problems and needs;
268 services and treatment to be provided by the community-based services or to
269 which the family and child will be referred, which may include, but are not
270 limited to: community medical, mental health and behavioral health services,
271 assistance with obtaining special education evaluation and services and remedial
272 education services, assistance with insurance coverage issues; recreational
273 services; mediation and family group conferencing. For each service or treatment
274 included the plan shall contain a statement clearly identifying: the type of services
275 or treatment, frequency of services or treatment, location, responsible service
276 providers or staff, and timeframes for achieving the plan objectives. The service
277 plan shall be reviewed and agreed to by the family before implementation;
278 (vii) Periodic review of the family service plan by the case manager and the
279 family to determine whether it is being followed and if it is effective;
280 (viii) Intensive crisis counseling for both children and families;
281 (ix) Parent training in appropriate skill areas directly related to the needs of the
282 family;

Deleted: child or

Deleted: Statement

Deleted: of the problem

Deleted: crisis intervention

Deleted: and

Deleted: and

289 (x) Data collection in a format as required by the secretary for each referral or
290 request which protects the privacy of the individuals seeking services while
291 providing a means to insure that information necessary to optimize the likelihood
292 of successful outcome for each person seeking services and to permit the
293 evaluation of the effectiveness of the program;
294 (xi) Compilation and dissemination to the general public of information about
295 family support resources and services available in the community;
296 (xii) Crisis intervention residential placements for children for up to 72 hours;
297 (xiii) Voluntary respite residential placement of the child for up to 21 days; and
298 (xiv) Mediation or alternative dispute resolution.

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

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

310 (i) The family or child is not in agreement with the services or treatment offered;
311 (ii) The family or child does not participate in the services or treatment selected;

Deleted: are

Deleted: shall

Deleted:

Deleted: will

316 (iii) a school, state agency, or private service provider does not provide the
317 services or treatment selected. .
318 (iv) The case manager needs assistance in developing an appropriate plan for the
319 provision and funding of services.
320 (b) The composition of the case staffing team shall be based on the needs of the family
321 and child and be chosen with consultation of the family and child. It shall include a
322 representative from the child's school district, and may include a supervisor of the case
323 manager, representatives from the area of physical health, mental health, behavioral
324 health, substance abuse, social, or educational services; a probation officer, the child's
325 attorney, and any person recommended by the child, family, or case manager.
326 (c) The case staffing team shall reach a timely decision on a family service plan which
327 meets the needs of the child and family.
328 (d) Upon receipt of the plan, the child and family shall accept or reject the services and
329 provisions in writing. Each service provider identified in the plan shall also accept or
330 reject their participation in writing. If the plan is accepted, it shall be implemented
331 immediately.
332 (e) The case manager and the family shall be equally responsible for implementing the
333 plan. The case manager, the family and child shall periodically review the progress
334 towards achieving the objectives of the plan in order to:
335 (i) Advise the case staffing team of the need to make adjustments to the plan; or
336 (ii) Terminate the case as indicated by successful or substantial achievement of
337 the objectives of the plan.

Deleted: or

Deleted: iii

Deleted: . The time and place selected for the meeting shall be convenient for the child and family. ¶

Deleted: and a representative of the secretary

Deleted: ;

Deleted: ;

Deleted: a representative of the district attorney

Deleted: acknowledge their position by accepting or rejecting

Deleted: shall

348 (f) The parent or legal guardian or child who is over the age of 16 may convene a
 349 resolution meeting of the case staffing team, and any other member of the team may
 350 convene a resolution meeting at any time if the member finds that doing so is in the best
 351 interest of the family or child. A resolution meeting requested by a parent or legal
 352 guardian or child who is over the age of 16 must be convened within 7 days, excluding
 353 weekends and legal holidays, after the date the case manager receives the request in
 354 writing.
 355 10. (a) 120 days after the assessment and screening of a child and family referred to or
 356 requesting community-based services, the case manager shall meet with the family and
 357 child, or with the case staffing team if one has been created, in order to determine
 358 whether or not services should be extended for an additional 90 days. If the family, child
 359 and case manager agree to extend services they shall be extended, if they agree not to
 360 extend then the case manager shall convene a resolution meeting.
 361 (b) If services are extended then at the end of the second 90 day period the case manager
 362 shall convene a resolution meeting.
 363 (c) If the family was referred to community-based services by a court or a probation
 364 officer then services may be extended for additional 90 day periods at the request of the
 365 court or probation officer.
 366 11. (a) A disposition meeting shall be convened by a case manager so that the family and
 367 child and case manager and case staffing team, if one has been created, may determine
 368 whether the goals of the family service plan have been achieved or if further services are,
 369 in the best interest of the family and child. After the meeting the case manager shall
 370 determine the resolution of the case as follows:

Deleted: disposition

Deleted: disposition

Deleted: disposition

Deleted: 90

Deleted: crisis intervention

Deleted: another

Deleted: disposition

Deleted: disposition

Deleted: S

Deleted: a

Deleted: intervention

Deleted: is

Deleted: disposition

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

Deleted: crisis intervention

(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 presenting behaviors are resolved and the case is discharged.

Deleted: iii

Deleted: crisis

Deleted: is

(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 decisions made at the resolution meeting. 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 manager believes it is likely that the child and family would benefit from further services.

Deleted: crisis intervention

(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 appointed by the secretary 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,

Deleted: crisis intervention

413 mental health, mental retardation, social services, youth services and transitional
414 assistance, education and public safety, the commissioner of probation, the chief justice
415 of the juvenile court, a district attorney, members of the bar who represent children in
416 juvenile court proceedings, a designee of the committee on public counsel services, an
417 education advocate representatives of urban, suburban and rural municipal police
418 departments and school districts, providers of service to children and families, parents,
419 and young adults who have participated in a community-based services program.

Deleted: and

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

Deleted: and

Deleted: crisis intervention

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

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

428 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section
429 1N the following new section:

430 Section 1O

431 The Department of Education shall promulgate regulations establishing a truancy
432 prevention program certification process. School districts shall establish a truancy
433 prevention program which meets the requirements for certification by the department.

Deleted: may

Deleted: and apply to the department for certification

434 SECTION 4

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

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

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

Deleted: persistently

Deleted: persistently refuses

444 to obey the lawful and reasonable commands of his parents or legal guardian, thereby

445 resulting in said parent’s or legal guardian’s inability to adequately care for and protect

446 said child, or ~~repeatedly fails to obey~~ the lawful and reasonable regulations of his school,

Deleted: persistently violates

447 ~~or~~ who is a habitual truant.

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

448 “Habitual truant”, a child who ~~fails to attend school for more than 8 school days in a~~

Deleted: persistently and willfully

449 quarter ~~without a reasonable excuse.~~

450 Section 39L.

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

453 2. On its own motion and at any time during proceedings brought under sections 39K
454 through 39X, the court may substitute a care and protection petition pursuant to Chapter
455 119 section 24 of the General Laws for a request for assistance to determine whether a
456 child requires assistance.

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

466 Section 39M Nature of the Proceedings

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

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

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

478 Section 39N.

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

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

Deleted:

Deleted: adjudicate

Deleted: a

Deleted: to

Deleted: alleging

Deleted: persistently

Deleted: persistently refuses

492 habitually truant or ~~repeatedly fails to obey~~ the lawful and reasonable regulations
493 of his school;

Deleted: persistently violates

494 (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;

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

Deleted: allegedly

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

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

Deleted: s

Deleted: supervision or

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

505 (a) a police officer;

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

508 (c) a school district;

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

Deleted: crisis intervention

517 ineligibility as provided for in chapter 6A, section 16H (7)(e). Except as provided below,
518 the clerk shall not accept for filing any request for assistance that does not have attached
519 thereto said notice of termination or ineligibility.

520 Any person or agency seeking to file a request for assistance pursuant to this section
521 which does not have attached thereto the notice of termination of community-based
522 services shall be referred by the clerk of the court to the program designated by the
523 secretary of the executive office of health and human services to provide community-
524 based services in the juvenile court district where the child resides.

525 If the petitioner is a police officer, the clerk may accept a written statement of the reasons
526 for the officer's belief that the referral to community-based services prior to filing the
527 request for assistance would present a risk of harm to the child or others in lieu of the
528 notice of termination or ineligibility. The clerk shall then immediately contact the
529 designated community-based services to provide notice that a request for assistance has
530 been filed.

531 Section 390

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

537 2. In proceedings originated by a parent, legal guardian or other person legally
538 responsible for the child's care the court shall cause a copy of the request for assistance

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: region

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: answer

545 and notice of the time and place to be heard to be served upon any parent of the child or
546 other person legally responsible for the child's care who has not signed the request for
547 assistance, provided that the address of such parent or other person legally responsible is
548 known to the court or is ascertainable by the court. Said copy shall be accompanied by a
549 notice that, in the event that the court deems it necessary to place the child in the care and
550 custody of the department of social services or any other agency, said parent may be
551 named as a respondent in any child support proceeding brought in connection with the
552 child's care.

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

559 Section 39P

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

564 Section 39Q

Deleted:

Deleted:

Deleted:

Deleted:

Deleted:

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

Deleted: for the child 3 business days prior to any scheduled hearing when the request

573
574 2. The court shall determine whether the parent or legal guardian of a child alleged to
575 require assistance is indigent. If the court determines that the parent or legal guardian is
576 not indigent, the court shall assess a \$300 fee against the parent or legal guardian to pay
577 for the cost of counsel ~~appointed for the child.~~ If the parent or legal guardian is
578 determined to be indigent but is still able to contribute toward the payment of some of
579 said costs, the court shall order the parent or legal guardian to pay a reasonable amount
580 toward the cost of counsel ~~appointed for the child.~~

Deleted: to be heard

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.

Deleted: 3

Deleted: appointed

Deleted: appointed

581 Section 39R

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

Deleted: clerk shall request the

Deleted: to

585 The probation officer in his discretion may:

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

Deleted: crisis intervention

Deleted: district

Deleted: crisis intervention

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

(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.

(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

Deleted: crisis intervention

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.

Deleted: to

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.

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

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

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

662

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

666 Section 39T

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

Deleted: ¶

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. ¶

Deleted: limited

Deleted: a

Deleted: persistently

Deleted: refusing

Deleted: on adjudication

Deleted: may conduct an emergency hearing to determine if the child should be placed in the temporary limited custody of the

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

Deleted: limited

Deleted: adjudication and

Deleted: adjudicate

Deleted: a child requiring assistance

690 Section 39U

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

Deleted: crisis intervention

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

Deleted: At the initial appearance of the child,

Deleted: t

Deleted: crisis intervention

Deleted: crisis intervention

Deleted: indicating any

Deleted: are

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

Deleted: crisis intervention

704 3. The court shall either

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

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

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

Deleted: crisis intervention

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

Deleted: probable cause that

Deleted: s

Deleted: adjudication

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

Deleted: used against the child

Deleted: or

Deleted: adjudication

Deleted: but such statements may be received by the court after adjudication for the purpose of disposition...

726 Section 39V

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

Deleted: s

Deleted: said

Deleted: s

Deleted: adjudge

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

Deleted: adjudicating

Deleted: as requiring

Deleted: a

Deleted: crisis intervention

Deleted: and

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

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

780 (c) subject to the provisions of sections 32 and 33 and with such conditions and
781 limitations as the court may recommend, ~~place the child in the custody of the~~
782 department of social services. If the court chooses to ~~place the child in the custody~~
783 ~~of~~ the department then at the same time, the court shall consider the provisions of
784 section 29C and shall make the written certification and determinations required
785 by said section 29C. ~~When the court has placed a child in the custody of the~~
786 department, ~~then the department:~~

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

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

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

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

Deleted: commit

Deleted: to

Deleted: commit

Deleted: to

Deleted: T

Formatted: Bullets and Numbering

Deleted: The department

805 and the alternative plan for treatment and placement in writing
806 to the court.

807 (d) the court may issue an order directing any state agency to provide particular
808 services to the family and child including but not limited to those services
809 described in clause (a). If the agency is not able to comply with the order
810 directing services then the agency shall provide to the court a written statement of
811 the reasons why it is unable to provide those services. A copy of the statement
812 shall be sent to the house and senate committees on ways and means and the joint
813 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. ¶

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

821 4. A child found to require assistance shall not be placed in a facility designated or
822 operated for juveniles adjudicated delinquent. However, such child may be placed in a
823 facility which operates as a group home to provide therapeutic care for juveniles
824 regardless of whether juveniles adjudicated delinquent are also provided care in such
825 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

Deleted: committed to

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

838 Section 39W

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

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

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. [§](#)

848 Section 39X

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

Deleted: limited custody

Deleted: committing

Deleted: the definition of child requiring assistance in section twenty-one section 39N

Deleted: __

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

Deleted: and will not respond to a summons

Deleted: limited

Deleted: custody

Deleted: has been taken into custody

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

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

Deleted: security

Deleted: produce

Deleted: before

Deleted: crisis intervention

Deleted: limited custody

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

Deleted: crisis intervention

Deleted: limited custody or

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

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

Deleted: crisis intervention

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

Deleted: limited custody was allegedly done

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

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

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

Deleted: will

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

Deleted: limited custody

917 SECTION 5

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

Deleted: crisis intervention

931 SECTION 6

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

934 SECTION 7

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

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

Deleted: 'youth court'

Deleted: secretary

940 SECTION 8

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

950 which provide community-based or in-home services to children with behavioral,
951 emotional, or mental health needs on December 1, 2008. Said report shall include a study
952 of current and planned programs including but not limited to the juvenile detention
953 alternatives initiative of the department of youth services and the behavioral health
954 system of care under development to implement the settlement agreement, dated August
955 29, 2006, and entered into by the parties of Rosie D. et al v. Romney, civil action No. 01-
956 30199-MAP, filed in the United States District Court in order to provide community-
957 based services to children suffering from severe emotional disturbances. The report shall
958 include, but not be limited to: i) a proposal to coordinate overlapping services in order to
959 achieve cost effectiveness and efficiency in the use of the resources of the commonwealth
960 and to offer better services to children and families in need, and ii) a proposal coordinate
961 private insurance, Masshealth, and sole state funded programs to ensure the provision of
962 needed services to children who are not eligible for Medicaid funded services..

Deleted: ¶

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