

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



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT REGARDING FAMILIES AND CHILDREN ENGAGED IN SERVICES

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

1 SECTION 1. The General Laws as appearing in the 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

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

7 *Whereas*, the issues facing said children and families are complex and the services which
8 would best assist such families are not always available from a single agency or
9 department of the commonwealth and the collaboration among multiple public and

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

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

14 *Whereas*, services are not consistently available in all communities;

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

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

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

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

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

35 3. For the purpose of this Section, the following words shall have the following
36 meanings:

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

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

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

51 ‘Secretary’: the secretary of the executive office of health and human services.

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

55 at risk of contact with the juvenile justice system or the child protection system, families
56 with children requiring assistance, and children who require assistance. The secretary
57 shall enter into contracts with private and public organizations to implement the program
58 and provide services.

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

66 (c) The secretary shall:

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

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

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

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

76 (v) adopt a standard intake screening and assessment tool to evaluate all families
77 and children seeking community-based services which identifies the family's

78 strengths, resources and service needs such as mental health, behavioral health or
79 substance abuse treatment, basic family shelter, clothing, and food needs, child
80 care needs, health insurance status, legal issues, education placement and child
81 protection;

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

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

95 (i) coordination of direct services for families from public and private providers;
96 (ii) creation of a local advisory board which is broadly representative of the
97 members of the community concerned for and experienced with the needs of
98 families and children at risk of involvement in the juvenile justice system and the
99 child protection system and includes, but is not limited to: representatives from
100 school districts, police officers, juvenile probation officers, district attorneys,

101 attorneys who represent children, mental health clinicians, behavioral health
102 providers, parents, youth, local religious organizations, representatives of local
103 businesses, higher education, social service agencies, public health agencies, and
104 other persons with experience in assisting youth and families in crisis.

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

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

112 (b) Subject to appropriation, at least one grant shall be awarded for the operation of a
113 community-based services program in each geographic region defined as a service area
114 for the delivery of behavioral health services to children entitled to care pursuant to
115 1905(a)(4)(B) of the Social Security Act. Additionally, two grants shall be awarded for
116 runaway treatment and prevention programs one in an urban location and one in a rural
117 location. Grants may award funding for up to three years, subject to appropriation, and
118 based on evidence of effectiveness and the submission of annual reports to the secretary.

119 (c) Proposals may be submitted by a local school or other local public agency or private
120 organization or medical or mental health care providers. Existing organizations or
121 coalitions of organizations which provide or coordinate social, educational, health,
122 behavioral health or mental health services to children or families may be given
123 preference in awarding grants wherever additional coordination will promote efficiency

124 and increased access to services. Applicants must demonstrate expertise in dealing with
125 children and families who are at risk of contact with the juvenile justice system or the
126 child protection system and program staffing which meets the credentialing and caseload
127 criteria as defined by the secretary.

128 6. (a) Community-based services shall be available to children between the ages of 6 and
129 18 who are habitually truant or children between the ages of 6 and 18 who runaway from
130 the home of their parents or legal guardian, or refuse to obey the lawful rules of their
131 parents or legal guardian, or repeatedly fail to obey school rules, and to families whose
132 children engage in such behaviors.

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

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

140 7. (a) A child or family may seek assistance from a community-based services program
141 directly and without referral. Children and families may be referred to local programs
142 offering community-based services by a police officer, probation officer, judge, social
143 worker, employee of the departments of social services or youth services, school
144 administrator, pediatrician, behavioral health, mental health or medical provider treating
145 a child. Provided that, when a school administrator refers a child for habitually truant
146 behavior, it must show that the school, child, and family have completed a department of

147 education certified truancy program if such a program is available at the school.

148 Whenever a child or family seeks assistance for habitually truant behavior the program

149 staff shall assist the family in gaining access to the child's school's department of

150 education certified truancy program.

151 (b) Whenever the staff of the program offering community-based services determines that

152 a family seeking or referred for services for a child has significant and complex medical

153 needs which cannot be met by the program, or where the child's behavior presents a

154 significant risk of harm to the child himself, the family, or the community, then the child

155 and family shall be referred to other services, pursuant to SECTION 5 of the Act which

156 created this Section.

157 (c) Where a youth has been charged with a delinquency offense or adjudicated

158 delinquent, eligibility for participation in community-based services shall be determined

159 by the program administrator after a review of the facts surrounding the offense by a

160 team consisting of: a community-based services caseworker, probation officers, family

161 members and the counsel representing the child in the delinquency matter.

162 (d) Where the child is in the custody of the department of social services and residing in

163 an out of home placement, eligibility for participation in community-based services shall

164 be determined by the program administrator after a review of the facts surrounding the

165 placement by a team consisting of the community-based services caseworker, the

166 department of social services caseworker, family members and any counsel representing

167 the child in the matter of placement and custody.

168 (e) Where a child or family is denied access to community-based services for reasons

169 other than those described in this section the program shall provide a written explanation

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

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

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

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

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

184 (ii) initial response to referral or request for services by a family or child which
185 includes a meeting to determine the circumstances which resulted in the request or
186 referral within six hours of contact ;

187 (iii) a plan for stabilization of any crisis which initiated the referral or request
188 within a reasonable time;

189 (iv) assessment and screening of each person requesting services and, if possible,
190 all family members residing in the household, using the standard intake tool as
191 established by the secretary pursuant to section 4(c), within seventy-two hours of
192 referral or request. The person conducting the assessment and screening must

193 note the reasons why any family member was not screened within seventy-two
194 hours of the initial request, and must complete the screening process for all family
195 members residing in the household within one week of the initial referral;

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

197 (vi) creation of a family service plan within ten working days from initial contact
198 which includes: strength based assessment and statement of family needs
199 presented; needs of the child; needs of the parents, legal guardian, or legal
200 custodian; measurable objectives that address the identified needs; services and
201 treatment to be provided by the community-based services program or to which
202 the family and child will be referred, which may include, but are not limited to:
203 community medical, mental health and behavioral health services, assistance with
204 obtaining special education evaluation and services and remedial education
205 services, assistance with insurance coverage issues; recreational services;
206 mediation and family group conferencing. For each service or treatment included,
207 the plan shall contain a statement clearly identifying: the type of services or
208 treatment, frequency of services or treatment, location, responsible service
209 providers or staff, and timeframes for achieving the plan objectives. The service
210 plan shall be reviewed and agreed to by the family before implementation;

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

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

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

- 216 (x) data collection in a format as required by the secretary for each referral or
217 request which protects the privacy of the individuals seeking services while
218 providing a means to insure that information necessary to optimize the likelihood
219 of successful outcome for each person seeking services and to permit the
220 evaluation of the effectiveness of the program;
- 221 (xi) compilation and dissemination to the general public of information about
222 family support resources and services available in the community;
- 223 (xii) crisis intervention residential placements for children for up to 72 hours;
- 224 (xiii) voluntary respite residential placement of the child for up to 21 days; and
- 225 (xiv) mediation or alternative dispute resolution.

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

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

- 237 (i) the family or child is not in agreement with the services or treatment offered;
- 238 or

239 (ii) the family or child does not participate in the services or treatment selected; or
240 (iii) a school, state agency, or private service provider does not provide the
241 services or treatment selected; or
242 (iv) the case manager needs assistance in developing an appropriate plan for the
243 provision and funding of services.

244 (b) The composition of the case staffing team shall be based on the needs of the family
245 and child and be chosen after consultation with the family and child. It shall include a
246 representative from the child's school district, and may include a supervisor of the case
247 manager, individuals with professional expertise in . health care, mental health care,
248 behavioral health care, substance abuse, social, or educational services and any person
249 recommended by the child, family, or case manager.

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

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

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

259 (i) advise the case staffing team of the need to make adjustments to the plan; or
260 (ii) terminate the case as indicated by successful or substantial achievement of the
261 objectives of the plan.

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

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

275 (b) If services are extended then at the end of the additional 90 day period the case
276 manager shall convene a resolution meeting.

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

280 11. (a) A resolution meeting shall be convened by a case manager so that the family,
281 child, case manager and case staffing team, if one has been created, may assess whether
282 the goals of the family service plan have been achieved or if further services are in the
283 best interest of the family and child. After the meeting the case manager shall document
284 the resolution of the case as follows:

285 (i) that it is unlikely the family and child will benefit from additional community-
286 based services at this time and the case is discharged, or
287 (ii) that the family failed to cooperate with the service plan and the case is
288 discharged, or
289 (iii) that the public or private agencies designated in the plan to provide specific
290 services did not provide those services and the case is discharged; or
291 (iv) that the presenting behaviors are resolved and the case is discharged.

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

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

305 12. There shall be an advisory council appointed by the secretary which shall advise the
306 secretary on creation, operation and effectiveness of the community-based services
307 program. Members shall include the commissioners or their designees of the departments

308 of public health, mental health, mental retardation, social services, youth services,
309 transitional assistance, education and public safety, the director of the office of Medicaid
310 or his designee, the commissioner of probation or his designee, the chief justice of the
311 juvenile court or his designee, a district attorney, members of the bar who represent
312 children in juvenile court proceedings, a designee of the committee on public counsel
313 services, an education advocate, representatives of urban, suburban and rural municipal
314 police departments and school districts, providers of service to children and families,
315 parents, and at least 2 young adults who have participated in a community-based services
316 program.

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

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

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

325 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section
326 1N the following new section:

327 Section 1O

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

331 SECTION 4

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

334 Section 39K. Definitions

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

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

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

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

349 Section 39L. Jurisdiction

350 The Juvenile court department has original and exclusive jurisdiction over any
351 proceeding commenced under section 39N alleging that a family or child require
352 assistance.

353 Section 39M. Nature of the Proceedings

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

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

360 .Section 39N. Request for Assistance

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

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

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

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

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

374 (i) if the request for assistance states that a child is habitually
375 truant, a statement of the actions taken by the school district to
376 comply with its obligations under its truancy prevention
377 program certified pursuant to chapter 69, section 10 and to
378 improve the school attendance of the child. The request for
379 assistance shall also state whether or not the child and his
380 family have participated in the truancy prevention program.;

381 and

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

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

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

388 (a) a police officer;

389 (b) a parent;;

390 (c) a school district;

391 3. The petitioner shall attach to the request for assistance the notice of termination of
392 community-based services as provided for in chapter 6A, section 16H(11)(b) or notice of
393 ineligibility as provided for in chapter 6A, section 16H (7)(e). Except as provided below,
394 the clerk shall not accept for filing any request for assistance that does not have attached
395 thereto said notice of termination or ineligibility.

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

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

407 If the petitioner is a parent, then the clerk may accept a written statement of the parents'
408 reasons for the parents' belief that referral to community based services prior to filing the
409 request for assistance would present a risk of significant harm to the child, family or
410 community. The court shall then immediately review the request for assistance and if the
411 court finds that referral of the family and child to community based services is likely to
412 result in said harm, then the court shall order the creation of a docket for the matter and

413 assign a probation officer to conduct an immediate inquiry and report to the court with
414 advice on how to proceed to obtain assistance for the child.

415 Section 39O Notice

416 1. Except as provided in subsection 2, on the filing of a request for assistance pursuant to
417 this section, the court may cause a copy of the request for assistance and a summons to be
418 issued, requiring the child and each parent to appear at the court at a time and place
419 named to address the request for assistance

420 2. In proceedings originated by a parent the court shall cause a copy of the request for
421 assistance and notice of the time and place to be heard to be provided to that person when
422 the request is filed. The court is not required to issue a summons to that person.

423 3. A copy of the request for assistance served or provided under subsection 1 or 2 shall be
424 accompanied by a notice that, in the event that the court deems it necessary to place the
425 child in the care and custody of the department of social services, said parent may be
426 named as a respondent in any child support proceeding brought in connection with the
427 child's care.

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

434 Section 39P Scheduling the Fact Finding Hearing

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

439 Section 39Q Appointment of Counsel for the Child

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

446 2. The court shall determine whether the parent or legal guardian of a child alleged to
447 require assistance is indigent. If the court determines that the parent or legal guardian is
448 not indigent, the court shall assess a \$300 fee against the parent or legal guardian to pay
449 for the cost of counsel appointed for the child. If the parent or legal guardian is
450 determined to be indigent but is still able to contribute toward the payment of some of
451 said costs, the court shall order the parent or legal guardian to pay a reasonable amount
452 toward the cost of counsel appointed for the child.

453 Section 39R Preliminary Inquiry by Probation

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

457 The probation officer in his discretion may:

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

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

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

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

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

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

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

492 Section 39S Custody, Failure to Appear

493 If, after a hearing at which the child is represented by counsel, the court finds that a child
494 alleged to require assistance by reasons of repeatedly failing to obey the lawful and
495 reasonable commands of his parent is likely not to appear at the fact finding hearing or at
496 the disposition hearing, the court place the child in the temporary custody of the
497 Department of Social Services.

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

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

506 Section 39T Withdrawal of Request for Assistance

507 The petitioners may, upon a showing that the circumstances which brought the matter
508 before the court have been resolved, withdraw the request for assistance at any point prior
509 to a hearing to determine the disposition of a request for assistance.

510 Section 39U Fact Finding Hearing

511 1. The court shall hold a fact finding hearing in which it shall receive evidence from the
512 petitioner, the parent, and the community-based services program case manager and the
513 recommendation of the probation officer.

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

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

524 3. The court shall either:

525 (i) dismiss the request for assistance because the circumstances which led to the
526 filing of a request for assistance have been resolved and the court finds that the
527 child and family do not require assistance;

528 (ii) adjourn the hearing for up to 60 days because it finds that the interests of the
529 child would best be served by continued informal assistance, in which case the
530 court shall, with the consent of the child and his parent, refer the child to a

531 probation officer or refer the child and family to the designated program for
532 additional community-based services assistance; or

533 (iii) find that the child and family require assistance and schedule a hearing for
534 disposition

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

539 Section 39V Disposition Hearing

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

547 2. Upon making a finding that a child and family require assistance, the court shall
548 convene a meeting of the probation officer who conducted the preliminary inquiry, the
549 case manager, if any, from the community-based services program, the petitioner, a
550 representative from the child's school, the child's parent, a representative of the
551 department of social services, and any other person the court deems helpful in

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

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

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

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

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

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

575 (c) subject to the provisions of sections 32 and 33 and with such conditions and
576 limitations as the court may recommend, place the child in the custody of the
577 department of social services. If the court chooses to place the child in the custody
578 of the department then at the same time, the court shall consider the provisions of
579 section 29C and shall make the written certification and determinations required
580 by said section 29C. When the court has placed a child in the custody of the
581 department, then the department:

- 582 (i) may not refuse out-of-home placement of a child if the
583 placement is recommended by the court provided that
584 the court has made the written certification and
585 determinations required by said section 29C;
 - 586 (ii) may not refuse out of home placement when requested
587 by the child if there is a substantiated history of abuse
588 and neglect in the home by the parent or legal guardian;
 - 589 (iii) subject to clauses (i) and (ii), shall direct the type and
590 length of such out-of-home placement;
 - 591 (iv) subject to clauses (i) and (ii), shall give due
592 consideration to the recommendations of the court.
- 593 Whenever the department decides not to carry out the

594 recommendations of the court regarding placement and
595 treatment of the child it shall present the reasons for its
596 decision and the alternative plan for treatment and
597 placement in writing to the court.

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

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

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

613 Section 39W Duration of Assistance

614 1. Any order of disposition under Section 39V shall continue in force for not more than
615 90 days; provided, however, that the court which entered the order may, after a hearing,
616 extend its duration for up to three additional periods, each such period not to exceed 90
617 days, if the court finds that the purposes of the order have not been accomplished and that
618 such extension would be reasonably likely to further those purposes. Orders shall be
619 extended upon a finding that the child or family are not participating in good faith.

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

622 Section 39X. Custodial Protection

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

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

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

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

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

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

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

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

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

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

662 SECTION 5

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

672 SECTION 6

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

675 SECTION 7

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

681 SECTION 8

682 The secretary of health and human services shall report to the house and senate
683 committees on ways and means and the joint committee on children, families and
684 person's with disabilities on the various programs and services operated by or being
685 developed by the departments within the executive office of health and human services
686 which provide community-based or in-home services to children with behavioral,
687 emotional, or mental health needs on December 1, 2008. Said report shall include a study
688 of current and planned programs including but not limited to the behavioral health system
689 of care under development to implement the settlement agreement, dated August 29,
690 2006, and entered into by the parties of Rosie D. et al v. Romney, civil action No. 01-
691 30199-MAP, filed in the United States District Court in order to provide community-
692 based services to children suffering from severe emotional disturbances. The report shall
693 include, but not be limited to: i) a proposal to coordinate overlapping services in order to
694 achieve cost effectiveness and efficiency in the use of the resources of the commonwealth
695 and to offer better services to children and families in need, and ii) a proposal coordinate
696 private insurance, Masshealth, and solely state funded programs to ensure the provision of
697 needed services to children who are not eligible for Medicaid funded services..

698 SECTION 9.

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

702 SECTION 10.

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

706

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

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

AN ACT REGARDING CHILDREN AND FAMILIES REQUIRING ASSISTANCE

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