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



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT REGARDING 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

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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

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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

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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.

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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 Section, the following words shall have the following
40 meanings:

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

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

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

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

57 4. (a) The secretary, using the resources of the office of children, youth and families,
58 shall create a network of child and family service programs throughout the

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

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77 commonwealth to provide community-based services to all children and families who are
78 at risk of contact with the juvenile justice system or the child protection system, families
79 with children requiring assistance, and children who require assistance. The secretary

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80 shall enter into contracts with private, and public organizations to implement the program
81 and provide services.

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

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89 (c) The secretary shall:

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

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

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

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

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

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

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5. (a) The secretary shall make grants for the purpose of planning, establishing, operating, coordinating and evaluating programs which will provide community-based services.

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

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- (i) coordination of direct services for families from public and private providers;
- (ii) creation of a local advisory board which is broadly representative of the members of the community concerned for and experienced with the needs of families and children at risk of involvement in the juvenile justice system and the

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child protection system and includes, but is not limited to: representatives from school districts, police officers, juvenile probation officers, district attorneys, attorneys who represent children, mental health ~~clinicians, behavioral health providers,~~ parents, youth, local religious organizations, representatives of local businesses, higher education, social service agencies, public health agencies, and other persons with experience in assisting youth and families in crisis. Membership shall be broadly representative of the racial, ethnic and economic diversity of the community. The local advisory boards shall create a subcommittee for each municipality in the service area which shall consist of a representative from the school department, ~~the police department, two parents,~~ and at least one other member of the advisory board; (iii) periodic evaluation of the success in achieving program goals, a process for making adaptations and improvements based on evaluation information.

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

(c) Proposals may be submitted by a local school or other local public agency or private organization or medical or mental health care providers. ~~Existing organizations or coalitions of organizations which provide or coordinate social, educational, health,~~

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behavioral health or mental health services to children or families may be given preference in awarding grants wherever additional coordination will promote efficiency and increased access to services. Applicants must demonstrate expertise in dealing with children and families who are at risk of contact with the juvenile justice system or the child protection system and program staffing which meets the credentialing and caseload criteria as defined by the secretary.

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

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

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

7. (a) A child or family may seek assistance from a community-based services program directly and without referral. Children and families may be referred to local programs offering community-based services by a police officer, probation officer, judge, social worker, employee of the departments of social services or youth services, school administrator, pediatrician, behavioral health, mental health or medical provider treating

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215 a child. Provided that, when a school administrator refers a child for habitually truant
216 behavior, it must show that the school, child, and family have completed a department of
217 education certified truancy program if such a program is available at the school.

218 Whenever a child or family seeks assistance for habitually truant behavior the program
219 staff shall assist the family in gaining access to the child's school's department of
220 education certified truancy program.

221 (b) Whenever the staff of the program offering community-based services determines that
222 a family seeking or referred for services, for a child has significant and complex medical
223 needs which cannot be met by the program, or where the child's behavior presents a
224 significant risk of harm to the child himself, the family, or the community, then the child
225 and family shall be referred to other services, pursuant to SECTION 5 of the Act which
226 created this Section.

227 (c) Where a youth has been charged with a delinquency offense or adjudicated
228 delinquent, eligibility for participation in community-based services shall be determined
229 by the program administrator after a review of the facts surrounding the offense by a
230 team consisting of: a community-based services caseworker, probation officers, family
231 members and the counsel representing the child in the delinquency matter.

232 (d) Where the child is in the custody of the department of social services and residing in
233 an out of home placement, eligibility for participation in community-based services shall
234 be determined by the program administrator after a review of the facts surrounding the
235 placement by a team consisting of the community-based services caseworker, the
236 department of social services caseworker, family members and any counsel representing
237 the child in the matter of placement and custody.

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(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.

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

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

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

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

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

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

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(iv) assessment and screening of each person requesting services and, if possible, all family members residing in the household, using the standard intake tool as

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established by the secretary pursuant to section 4(c), within seventy-two hours of referral or request. The person conducting the assessment and screening must note the reasons why any family member was not screened within seventy-two hours of the initial request, and must complete the screening process for all family members residing in the household within one week of the initial referral;

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

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

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

presented; needs of the child; needs of the parents, legal guardian, or legal

custodian; measurable objectives that address the identified needs; services and

treatment to be provided by the community-based services program or to which

the family and child will be referred, which may include, but are not limited to:

community medical, mental health and behavioral health services, assistance with

obtaining special education evaluation and services and remedial education

services, assistance with insurance coverage issues; recreational services;

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

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

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

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

plan shall be reviewed and agreed to by the family before implementation;

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

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

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

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

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

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

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326 (xii) crisis intervention residential placements for children for up to 72 hours;

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327 (xiii) voluntary respite residential placement of the child for up to 21 days; and

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328 (xiv) mediation or alternative dispute resolution.

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

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

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

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351 ~~or~~

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

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

354 ~~services or treatment selected; or~~

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

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356 ~~provision and funding of services.~~

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

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358 and child ~~and be chosen after consultation with the family and child.~~ It shall include a

359 representative from the child's school district, ~~and may include a supervisor of the case~~

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360 manager, ~~individuals with professional expertise in . health care, mental health care,~~

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361 ~~behavioral health care, substance abuse, social, or educational services and any person~~

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362 recommended by the child, family, or case manager.

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

364 meets the needs of the child and family.

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

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

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

368 immediately.

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

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370 plan. The case manager, ~~the family and child~~ shall periodically review the progress

371 towards achieving the objectives of the plan in order to:

372 (i) ~~advise~~ the case staffing team of the need to make adjustments to the plan; or

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389 (ii) ~~terminate~~ the case as indicated by successful or substantial achievement of the
390 objectives of the plan.

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

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

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

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

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409 11. (a) A ~~resolution~~ meeting shall be convened by a case manager so that the family,
410 ~~child~~, case manager and case staffing team, if one has been created, may ~~assess~~ whether
411 the goals of the family service plan have been achieved or if further ~~services are~~ in the

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430 best interest of the family and child. After the meeting the case manager shall document
431 the resolution of the case as follows:

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

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434 (ii) that the family failed to cooperate with the service plan and the case is
435 discharged, or

436 (iii) that the public or private agencies designated in the plan to provide specific
437 services did not provide those services and the case is discharged; or

438 (iv) that the presenting behaviors are resolved and the case is discharged.

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

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

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459 12. There shall be an advisory council appointed by the secretary which shall advise the
460 secretary on creation, operation and effectiveness of the community-based services
461 program. Members shall include the commissioners or their designees of the departments
462 of public health, mental health, mental retardation, social services, youth services,
463 transitional assistance, education and public safety, the director of the office of Medicaid
464 or his designee, the commissioner of probation or his designee, the chief justice of the
465 juvenile court or his designee, a district attorney, members of the bar who represent
466 children in juvenile court proceedings, a designee of the committee on public counsel
467 services, an education advocate, representatives of urban, suburban and rural municipal
468 police departments and school districts, providers of service to children and families,
469 parents, and at least 2 young adults who have participated in a community-based services
470 program.

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

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474 SECTION 2: Section 1N of Chapter 69 of the General Laws is hereby amended by
475 adding at the end of subsection (b) the following new paragraph:-
476 “grants may be awarded to assist schools in planning and implementing truancy
477 preventions programs which meet the certification requirements established pursuant to
478 section 1O of Chapter 69.”
479 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section
480 1N the following new section:
481 Section 1O

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

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491 SECTION 4

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

494 Section 39K. Definitions

495 “Child requiring assistance”, a child below the age of eighteen who ~~repeatedly~~ runs away
496 from the home of his parents or legal guardian, or ~~repeatedly fails~~ to obey the lawful and
497 reasonable commands of his parents or legal guardian, thereby ~~interfering with~~ said
498 parent’s or legal guardian’s ability to adequately care for and protect said child, or
499 ~~repeatedly fails to obey~~ the lawful and reasonable regulations of his school, ~~or~~ who is a
500 habitually ~~truant~~.

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

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

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

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509 Section 39L. Jurisdiction

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

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527 Section 39M. Nature of the Proceedings

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

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

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

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

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

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

534 Section 39N. Request for Assistance

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

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

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

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

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

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

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

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

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(e) that the child and family require assistance.

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

(a) a police officer;

(b) a parent;

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620 (c) a school district;

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

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

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

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

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

Section 39O Notice

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

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

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

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

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Deleted: or other person legally responsible for his care, or with whom he is domiciled, to appear at the court at a time and place

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Deleted: , legal guardian or other person legally responsible for the child's care the court shall cause a copy of

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Deleted: served upon any parent of the child or other person legally responsible for the child's care who has not signed the request for assistance, provided that the address of such parent or other person legally responsible is known to the court or is ascertainable by the court. Said copy

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Deleted: or any other agency,

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692 Section 39P Scheduling the Fact Finding Hearing

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

697 Section 39Q Appointment of Counsel for the Child

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

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

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704 2. The court shall determine whether the parent or legal guardian of a child alleged to
705 require assistance is indigent. If the court determines that the parent or legal guardian is
706 not indigent, the court shall assess a \$300 fee against the parent or legal guardian to pay
707 for the cost of counsel appointed for the child. If the parent or legal guardian is
708 determined to be indigent but is still able to contribute toward the payment of some of
709 said costs, the court shall order the parent or legal guardian to pay a reasonable amount
710 toward the cost of counsel appointed for the child.

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

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711 Section 39R Preliminary Inquiry by Probation

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

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728 The probation officer in his discretion may:

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

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

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

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

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

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

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

771 Section 39S Custody, Failure to Appear

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

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

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

787 Section 39T Withdrawal of Request for Assistance

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

791 Section 39U Fact Finding Hearing

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

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

If it is shown by clear and convincing evidence that there is a likelihood of serious harm to the child, the child may be placed in the temporary limited custody of the Department of Social Services pending a hearing. ¶

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Deleted: Counsel shall be appointed for the parents or legal guardian of said child. If the court finds by clear and convincing evidence that the child is likely not to appear, the court may place the child in the temporary limited custody of the Department of Social Services pending adjudication and disposition. ¶

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

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

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

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846 3. The court shall either:

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

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

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866 probation officer or ~~refer~~ the child and family ~~to~~ the designated program for
867 additional community-based ~~services~~ assistance; or

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

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

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874 Section 39V ~~Disposition Hearing~~

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

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

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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

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

931 (c) subject to the provisions of sections 32 and 33 and with such conditions and
932 limitations as the court may recommend, ~~place the child in the custody of the~~
933 department of social services. If the court chooses to ~~place the child in the custody~~
934 ~~of~~ the department then at the same time, the court shall consider the provisions of
935 section 29C and shall make the written certification and determinations required
936 by said section 29C. ~~When the court has placed a child in the custody of the~~
937 department, ~~then the department:~~

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

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

945 (iii) _____ subject to clauses (i) and (ii), shall direct the type and
946 length of such out-of-home placement.

947 (iv) _____ subject to clauses (i) and (ii), shall give due
948 consideration to the recommendations of the court.

949 ~~Whenever the department decides not to carry out the~~

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959 recommendations of the court regarding placement and
960 treatment of the child it shall present the reasons for its
961 decision and the alternative plan for treatment and
962 placement in writing to the court.

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

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

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

978 Section 39W Duration of Assistance

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. ¶

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

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43

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

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

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1000 1. Any order of disposition ~~under Section 39V~~ shall continue in force for not more than
1001 90 days; provided, however, that the court which entered the order may, after a hearing,
1002 extend its duration for up to three additional periods, each such period not to exceed 90
1003 days, if the court finds that the purposes of the order have not been accomplished and that
1004 such extension would be reasonably likely to further those purposes. Orders shall be
1005 extended upon a finding that the child or family are not participating in good faith.

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1006 2. No order shall continue in effect after the eighteenth birthday of a child named in a
1007 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...

1008 Section 39X. [Custodial Protection](#)

1009 1. (a) A child may be taken into ~~custodial protection~~ for ~~engaging in~~ the behaviors
1010 described in ~~section 39N~~, only if such child has failed to obey a summons issued pursuant
1011 to section ~~390~~, or if the law enforcement officer initiating limited custody has probable
1012 cause to believe that such child has run away from the home of his parents or legal
1013 guardian.

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1014 (b) After an officer has taken a child into ~~custodial protection~~, the officer shall
1015 immediately notify the parent or other person legally responsible for the child's care, or
1016 the person with whom he is domiciled, that he ~~is under the custodial protection of the~~
1017 ~~officer~~.

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1018 (c) After making every reasonable effort to give notice under paragraph (b), the officer
1019 shall:

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1034 (i) release the child to the custody of his or her parent or other person legally
1035 responsible for his or her care upon the written promise, without surety, of the
1036 person to whose custody the child is released that he will bring the child to the
1037 program designated to provide community-based services for the geographic
1038 region which constitutes the district of the juvenile court department within which
1039 the child was taken into custodial protection or in which the child resides, at a
1040 time and place specified in writing; or

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1041 (ii) forthwith and with all reasonable speed take the child directly, and without
1042 first being taken to the police station house, to the program designated to provide
1043 community-based services for the geographic region which constitutes the district
1044 of the juvenile court department within which the child was taken into custodial
1045 protection or in which the child resides; or

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

1046 (iii) release the child to a representative of the department of social services, if the
1047 law enforcement officer has reason to believe that the child is or has been in the
1048 care or custody of such department; or

1049 (iv) take the child directly to the juvenile court in which the act occasioning the
1050 taking into custodial protection occurred, provided that the officer affirms on the
1051 record that he or she attempted to exercise the options identified in paragraphs (i),
1052 (ii), and (iii) of this subdivision, was unable to exercise these options, and the
1053 reasons therefore.

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

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1076 (d) In the absence of special circumstances, the officer shall release the child to his
1077 parents or other person legally responsible for his care in accord with paragraph (c)(i).

1078 (e) A child may not be securely detained in a police station or town lockup. At no time
1079 shall a child be placed in any locked facility under the supervision of any police
1080 department, sheriff department, or department of youth services.

1081 (f) Notwithstanding the foregoing requirements for placement, any such child who has
1082 been taken into custodial protection shall, if necessary, be taken to a medical facility for
1083 treatment or observation.

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

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1084 SECTION 5

1085 Notwithstanding any general law to the contrary the secretary of the executive office of
1086 health and human services and the commissioners of departments of public health, mental
1087 health, mental retardation, social services, youth services and transitional assistance shall
1088 enter into memoranda of understanding among themselves and with the department of
1089 education, office of the commissioner of probation, the juvenile court, municipal police
1090 departments and school districts to provide coordination, delivery, and funding of
1091 services to children and families who, pursuant to the provisions of section 16H(7)(b) of
1092 chapter 6A of the General Laws, are not eligible for community-based services
1093 established pursuant to section 16H of chapter 6A.

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1094 SECTION 6

1095 The secretary of the executive office of health and human services shall pilot a program
1096 to address the unique needs of girls who run away from their parents and legal guardians.

1097 SECTION 7

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

SECTION 8

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

SECTION 9.

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1139 Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 3 of the first
1140 paragraph, the word “sixteen” and inserting in place thereof the following word:-
1141 eighteen.

1142 SECTION 10.

1143 Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 4 of the second
1144 paragraph, the word “sixteen” and inserting in place thereof the following word:-
1145 eighteen

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

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

AN ACT REGARDING CHILDREN AND FAMILIES REQUIRING ASSISTANCE

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