

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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. Whereas families in the Commonwealth whose children are truant, runaway or
2 acting in a fashion that interferes with their parent’s ability to adequately care for and protect
3 said children are families in crisis and often require the assistance of government agencies,
4 including schools, human service agencies and the courts, as well as non-governmental service
5 providers; and;

6 Whereas the issues facing said children and families are complex and the services
7 which would best assist such families are not always available from a single agency or
8 department of the Commonwealth; and

9 Whereas the collaboration among multiple public and private agencies and offices is
10 required to ensure that all children and families receive the services they need to succeed; and

11 Whereas services are not consistently available in all communities;

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

14 SECTION 2. The General Laws as appearing in the 2008 Official Edition are hereby
15 amended by adding after section 16S of chapter 6A the following new section:

16 Section 16T. Community based services for families and children

17 (a) It is the intent of the General Court to create an accountable, community-based
18 services network that provides consistent services throughout the Commonwealth to address the
19 needs of children requiring assistance and their families by providing them with an array of
20 resources. The goal of said system is to preserve and strengthen families while ensuring the
21 healthy behavioral, social and educational development of the child and to provide opportunities
22 to divert children from the juvenile justice and child protection systems. These services shall
23 focus on creating a stable environment and strengthening the family as a whole while
24 emphasizing parental responsibility. These services shall also focus on assisting children who are
25 at risk of dropping out of school.

26 Said community-based services network shall consist of a network of family resource centers
27 where public and private providers will provide service coordination, referrals and services in the
28 community as a timely response to children and families requiring assistance. The system shall
29 include a mechanism for the collection and analysis of information which will enable the
30 Commonwealth to evaluate the effectiveness of the network of family resource centers and to
31 identify gaps in services. It is the intent of the General Court to reserve judicial intervention for
32 those children and families who require services not available through the community based

33 services network and family resource centers in order to stabilize the child and family and to
34 achieve resolution of the crisis.

35 Nothing in this act is intended to diminish or interfere with the responsibility of the
36 commonwealth or municipalities to provide educational services as required by state and federal
37 law. The creation of said community based service network and family resource centers are
38 subject to appropriation and services provided shall be limited by the availability of funds and
39 third party reimbursement.

40 (b) For the purpose of this Section the following words shall have the following
41 meanings:

42 “Child requiring assistance”, a child between the ages of 6 and 18 who (a) repeatedly runs away
43 from the home of his parents, legal guardian, or custodian; (b) repeatedly fails to obey the lawful
44 and reasonable commands of his parents, legal guardian, or custodian, thereby interfering with
45 said parent’s, legal guardian’s, or custodian’s ability to adequately care for and protect said child;
46 (c) repeatedly fails to obey the lawful and reasonable regulations of his school; or (d) who is
47 habitually truant;

48 “Community-based services”, services, including coordination of services, that are designed to
49 assist families with children requiring assistance so that, where appropriate, such children will be
50 able to: (a) continue residing with their families in their home communities; (b) continue as
51 students in their community schools; and (c) enjoy strengthened relationships with their families.

52 “Family with children requiring assistance”, the parents, guardians, custodian, siblings, and any
53 other relatives or caretakers who are responsible for a child requiring assistance.

54 “Habitually truant”, a school-aged child not otherwise excused from attendance in accordance
55 with the lawful and reasonable regulations of his school who fails to attend school for more than
56 8 school days in a quarter or 10 days in a school year;

57 “Secretary”, the secretary of the Executive Office of Health and Human Services.

58 (c) Subject to appropriation or third party reimbursement, the secretary shall:

59 (1) establish a network of child and family service programs and
60 family resource centers throughout the Commonwealth to provide community-based services to
61 families with children requiring assistance. The network of community-based services
62 programs and family resource centers shall assist families so that whenever possible children will
63 be able to continue residing with their families in their home communities; assist families to
64 enable children to continue as students in their community schools; strengthen the relationships
65 between children and families; and provide coordinated, comprehensive, community-based
66 services for children at risk of dropping out of school, committing delinquent acts, or engaging in
67 behaviors which impede the likelihood of their leading healthy, productive lives.

68 (2) develop guidelines and standards necessary to achieve and
69 maintain on a statewide basis a comprehensive and integrated network of community based
70 services and family resource centers for children and families.

71 (3) seek to promote efficiency and access to existing services in
72 establishing the network by including: organizations that are part of the comprehensive
73 community-based behavioral health delivery system coordinated by the secretary under section
74 16S; organizations that provide services or have experience in coordinating access to
75 community-based services such as local schools; other local public agencies, private

76 organizations, and medical, behavioral or mental health care providers. (4)

77 coordinate the services provided by the network and in the family resource centers which
78 may include outreach, intake, screening, assessment and referral to services. Services offered
79 through the network shall include, but are not limited to treatment for or assistance with:
80 eligibility determinations, behavioral, medical, and mental health needs, special education
81 evaluation, remedial education services, assistance with insurance issues, mentoring, family and
82 parent support, civic engagement and community service, after school and out-of-school
83 opportunities, residential programs, crisis management and case management. The secretary
84 shall encourage cooperation among local providers as needed to provide the full complement of
85 services required under this section.

86 (5) monitor and provide technical assistance to family resource
87 centers and providers of community based services.

88 (6) require the use of a standard intake screening and assessment tool
89 to evaluate all families and children seeking community based services which shall identify the
90 family's strengths, resources and service needs such as mental health, behavioral health or
91 substance abuse treatment, basic family shelter, clothing and food needs, child care needs, health
92 insurance status, legal issues, education placement and child protection. (7)

93 create a data collection system for use by programs within the community based services
94 network and family resource centers which maintains the privacy of clients served, assists
95 programs and the secretary in addressing the needs of the population to be served, collects
96 information related to, among other things, the insurance status and benefit coverage of clients
97 served, income documentation as needed to apply a sliding fee scale for payment or waiver of
98 payment for services, and other information that may assist the program and the secretary in

99 providing services, identifying service needs and gaps, and evaluating the effectiveness of the
100 family resource centers and the community based services network.

101 (d) Any documentation of services provided to the family and child through the
102 network of community based services or at the family resource centers shall not be public
103 records. Except as otherwise required by law, including laws related to the reporting of
104 suspected abuse or neglect under section 51A of chapter 119, statements made by the family and
105 child while receiving services from the network of community based services shall be treated as
106 confidential and may not be used in any proceedings without the written consent of the person
107 making the statement. Information about the child and family requiring assistance, including
108 interactions with service providers and protected health information services, may be shared
109 among providers of community services providing such services to the child and family as well
110 as with any agency within the executive office of health and human services providing services
111 to the child as needed to coordinate treatment and provide appropriate case management.
112 Notwithstanding any general or special law to the contrary, information about the child and
113 family, including interactions with service providers and protected health information services,
114 may be shared among members of the case team as needed to coordinate treatment and provide
115 appropriate case management, to the extent permitted under applicable federal law, unless the
116 child or family decline in writing to permit such information sharing.

117 (e) Participation in community based services and use of the family resource centers
118 shall be pursuant to a voluntary agreement of the parent, legal guardian, or custodian and the
119 child; provided however that provision of community based services shall be contingent upon
120 parents, legal guardians and custodians granting consent to allow covered services to be billed to
121 the insurance providers.

122 (f) Except as provided herein, a school administrator shall refer a child to a family
123 resource center or a communitybased services program at the same time that the administrator
124 notifies the student and his parent, legal guardian, or custodian that the student will be expelled
125 for failure to comply with the lawful and reasonable rules of the school. After providing the
126 process that is due the student, including an expulsion hearing if requested under section 37H of
127 chapter 71, the school administrator shall consider the outcome of the community-based services
128 if the student provides that information to the school. When a school administrator refers a child
129 for habitually truant behavior, it must be shown that the school, child, and family have completed
130 a department of education certified truancy program, if such a program is available at the school.
131 Whenever a child or family seeks assistance from a family resource center or community based
132 service network program for habitually truant behavior, the program staff shall assist the family
133 in gaining access to the child's school's certified truancy program.

134 SECTION 3. Chapter 69 of the General Laws, as appearing in the 2008 Official
135 Edition, is hereby amended by adding after section 1N the following new section:-

136 Section 10. The department of elementary and secondary education shall promulgate
137 regulations establishing a truancy prevention program certification process. The regulations shall
138 be consistent with the schools and behavioral health framework developed by the department
139 under section 19 of chapter 321 of the acts of 2008 and shall include requirements that the
140 truancy prevention program evaluate the level of out-of-school support for students and families,
141 and address the conditions that may make students more likely to become truant, including
142 previously unidentified or inadequately addressed special needs, bullying and harassment.
143 School districts shall establish a truancy prevention program which meets the requirements for
144 certification by the department.

145 SECTION 4. Section 21 of Chapter 119 of the General Laws, as appearing in the 2008
146 Official Edition, is hereby amended by striking lines 8 to 16 and inserting in place thereof the
147 following:-

148 “Child requiring assistance”, a child between the ages of 6 and 18 who (a) repeatedly runs away
149 from the home of his parents or legal guardian; (b) repeatedly fails to obey the lawful and
150 reasonable commands of his parents or legal guardian, thereby interfering with said parent’s or
151 legal guardian’s ability to adequately care for and protect said child; (c) repeatedly fails to obey
152 the lawful and reasonable regulations of his school; (d) who is a habitual truant;

153 SECTION 5. Section 21 of Chapter 119 of the General Law, as appearing in the 2008
154 Official Edition, is hereby amended by adding the following definitions:

155 “Family requiring assistance”, the parents, guardians, siblings and any other relatives or
156 caretakers responsible for a school aged child who needs assistance.;

157 “Habitual truant”, a school-aged child, not otherwise excused from attendance in accordance
158 with the lawful and reasonable regulations of his school, who willfully fails to attend school for
159 more than 8 school days in a quarter or 10 days in a year;

160 SECTION 6. Section 21 of Chapter 119 of the General Laws, as appearing in the 2008
161 Official Edition, is hereby amended at line 54 by inserting at the end thereof the following
162 sentence:

163 For purposes of sections 39L through 39Y exclusive the word “Parent”, includes a legal guardian
164 or other person legally responsible for a child’s care.

165 SECTION 7. Chapter 119 of the General Laws is hereby amended by striking out sections 39E to
166 39J, inclusive, and inserting in place thereof the following new sections:

167 Section 39K. Jurisdiction

168 The juvenile court department has original and exclusive jurisdiction over any proceeding
169 commenced under section 39M alleging that a child and his family requires assistance. The
170 jurisdiction of the Boston juvenile court for the subject matter of this section shall extend to the
171 territorial limits of Suffolk County.

172 Section 39L. Nature of the Proceedings

173 (a) Proceedings under sections 39K to 39Y, inclusive, shall not be deemed criminal
174 proceedings and any record of these proceedings, including the filing of a request for assistance
175 and creation of a docket, shall not be entered in the criminal offender record information system.

176 (b) Notwithstanding any general or special law to the contrary, no record pertaining to the
177 child involved in the proceedings shall be maintained or remain active after the request for
178 assistance is dismissed. The identity and record of any child for which a request for assistance is
179 filed shall not be submitted to the criminal history systems board, criminal offender record
180 information system, court activity record index or any other criminal record information system.

181 (c) Proceedings under sections 39K to 39Y, inclusive, shall be confidential and not be
182 open to the public.

183 Section 39M. Request for Assistance

184 (a) A proceeding to determine whether or not a child and his family requires assistance is
185 originated by the filing of a request for assistance, stating the petitioner's information and belief :

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

191 (2) that the child was under the age of 18 at the time the specified acts took
192 place;

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

195 (4) that the child and his family require assistance;

196 (5) when the petitioner is a school district, the request for assistance shall
197 additionally include the following:

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

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

207 (6) when the petitioner is a parent, the request for assistance shall
208 additionally include documentation that the family was informed of and referred to a
209 community-based services program or family resource center under section 16T of chapter 6A.

210 (b) The following persons may originate a proceeding under this section:

211 (1) a police officer;

212 (2) a parent;

213 (3) a school district, but only if the request states that the child repeatedly
214 fails to obey the lawful and reasonable regulations of his school or is habitually truant;

215 (c) (1) When a request for assistance is presented to the clerk for filing the clerk
216 shall consult with a department of children and families court liaison to determine whether or not
217 the child and family named in the petition have received services from a community service
218 program or family service center created under section 16T of chapter 6A. If the child and
219 family have participated in such services, the clerk shall attach to the request a statement of the
220 petitioner that identifies the family resource center or community based services program that
221 provided assistance. If the child and family have not participated in such services the clerk shall
222 inform the petitioner that they may delay filing the request for assistance and that the petitioner
223 may chose to first refer the child and his family to the family resource center or community
224 based services program designated by the secretary of the executive office of health and human
225 services to provide community-based services in the juvenile court district where the child
226 resides and at a later time return to court and file a request for assistance if needed.

227 (2) (i) If the petitioner is a parent, the clerk shall offer to contact the
228 department of children and families court liaison or the family resource center or community
229 based services program designated by the secretary of the executive office of health and human
230 services on the parent's behalf in order to complete a referral to such family resource center or
231 community based services program. If the parent declines to be referred to such center or
232 program, the clerk shall provide to the parent informational materials prepared by the court
233 which explain the nature of services available through the court process, the manner in which
234 those services will be delivered, the nature of the orders which the court may issue and the
235 possibility of changes in the custody of the child. The clerk may then accept the request for
236 assistance for filing and attach to it the parent's signed statement that the parent does not wish to
237 be referred to such services and that the parent understands the nature of services available
238 through the court process, the manner in which those services will be delivered, the nature of the
239 orders which the court may issue and the possibility of changes in the custody of the child.

240 (ii) If the petitioner is a police officer, the clerk shall offer to
241 contact department of children and families court liaison or the family resource center or
242 community based services program designated by the secretary of the executive office of health
243 and human services in order to complete a referral to such services. The clerk may accept a
244 written statement of the reasons for the officer's belief that the referral to community-based
245 services prior to filing the request for assistance would present a risk of harm to the child. The
246 clerk shall then (A) immediately contact the department of children and families court liaison
247 and the designated family resource center or community based services program to provide
248 notice that a request for assistance has been prepared for filing, (B) create a docket for the matter
249 and (C) request that the chief probation officer, or his designee, conduct an immediate inquiry

250 and report to the clerk, or a judge if the clerk is not available with advice on how to proceed to
251 obtain assistance for the child. After considering such advice the clerk may accept the request
252 for assistance for filing.

253 Section 39N. Notice

254 (a) Except as provided in subsection (b), upon the filing of a request for assistance
255 pursuant to this section, the court shall cause a copy of the request for assistance and a summons
256 to be issued, requiring the child and each parent, to appear at the court at a time and place named
257 to address the request for assistance. Where the safety and wellbeing of the child or other parent
258 is in danger, only the primary custodial parent shall be required to appear.

259 (b) In proceedings commenced by a parent, the court shall, at the time the request is filed,
260 notify the parent in writing of the time and place that the request for assistance will be heard to
261 ensure the parent has a copy of the request for assistance. If the parents are not living together,
262 the court shall cause a copy of the request for assistance and a summons to be issued, requiring
263 the child and the parent who did not initiate the request for assistance to appear to address the
264 request for assistance at the court at a time and place named, except in cases where the safety and
265 wellbeing of the child or other parent is in danger, then only the primary custodial parent shall
266 attend.

267 (c) A copy of the request for assistance served or provided under subsection (a) or (b)
268 shall be accompanied by a notice that, in the event that the court deems it necessary to place the
269 child in the care and custody of the department of children and families, said parent may be
270 named as a respondent in any child support proceeding brought in connection with the child's
271 care.

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

277 Section 39O. Determination of probable cause that a child and family require
278 assistance; Expungement.

279 Whenever a request for assistance is filed, the clerk, or a judge if the clerk is not
280 available, shall hold a hearing as soon as possible, but not later than 15 days after the creation of
281 a docket. At that hearing the clerk, or a judge if the clerk is not available, shall receive the
282 recommendation of the probation officer and receive evidence from the petitioner and the child.
283 The clerk, or the judge shall determine (i) whether or not there is probable cause for a
284 determination that a child and family are in need of assistance and (ii) whether it is in the best
285 interest of the child for the matter to proceed to a fact finding hearing. The clerk or judge shall
286 then either i) dismiss the request for assistance, or (ii) create a docket for the matter, unless a
287 docket has already been created under section 39M(b), and refer the child and family to a
288 probation officer for the preliminary inquiry under section 39R. When a request for assistance is
289 dismissed under this section, the court shall enter an order directing the expungement of any
290 records of the claimant maintained by the clerk, the court, the criminal history systems board,
291 the court activity record index, and the probation department that directly pertain to the request
292 for assistance.

293 Section 39P. Scheduling the Fact Finding Hearing

294 At the conclusion of the probable cause hearing required by section 39O, the clerk
295 shall set a date for a fact finding hearing no more than 90 days from the date the request for
296 assistance was filed. The court may postpone the fact finding hearing upon the request of the
297 parents, child, petitioner or probation officer for an additional 90 days after the expiration of the
298 initial 90 day period.

299 Section 39Q. Appointment of Counsel

300 (a) When the request for assistance is filed the child shall be informed that he has a right
301 to counsel at all hearings. At the time the request for assistance is filed, that court shall ensure
302 that if said child is not able to retain counsel, the court shall at that time appoint counsel for said
303 child. The clerk shall cause a copy of the request for assistance and notice of the time and place
304 of the fact finding hearing to be delivered to counsel at the time of appointment.

305 (b) When the request for assistance is filed, each parent or legal guardian of the child
306 shall be informed that he has the right to participate as a party in any proceeding under sections
307 39K to 39Y involving his child and that he has the right to counsel at any hearing or proceeding
308 regarding custody of his child. If said parent or legal guardian is financially unable to retain
309 counsel, the court shall appoint counsel for said parent or legal guardian.

310 (c) The court shall determine whether the parent or legal guardian of a child alleged to
311 require assistance is indigent. If the court determines that the parent or legal guardian is not
312 indigent, the court shall assess up to a \$1000 fee against the parent or legal guardian to pay for
313 the cost of counsel appointed for the child. If the parent or legal guardian is determined to be
314 indigent but is still able to contribute toward the payment of some of said costs, the court shall

315 order the parent or legal guardian to pay a reasonable amount toward the cost of counsel
316 appointed for the child or for the parent.

317 Section 39R. Preliminary Inquiry by Probation

318 (a) When requested by the court or a clerk, the chief probation officer or his designee
319 shall conduct a preliminary inquiry to determine whether in his opinion the best interests of the
320 child and family require that crisis intervention services be provided to the child and family.

321 The probation officer in his discretion may:

322 (1) refer the family and child to a community-based services program in the
323 community where the child resides;

324 (2) confer with the family resource center or any provider of community-
325 based services;

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

328 (4) conduct conferences with the child, the child's family and the petitioner
329 for the purpose of finding ways to resolve the situation which formed the basis of the request for
330 assistance. Information obtained by the probation officer may be used in the present proceeding
331 but it is otherwise confidential and may not be used in school disciplinary proceedings or other
332 court proceedings.

333 (b) If the child or his parents fail to participate in good faith with the referrals or
334 conferences arranged by the probation officer or if the probation officer is not able to refer the
335 child or his parents to an appropriate public or private organization which is willing and able to

336 provide appropriate services, the probation officer shall so certify in writing and present these
337 findings to the clerk or judge.

338 (c) (1) The commissioner of probation shall establish a system to collect data on
339 all requests for assistance made and how they are resolved under sections 39K through 39Y.
340 Said system shall maintain the privacy of clients served, assist the court in addressing the needs
341 of the population to be served and collect information related to: the racial and ethnic identity of
342 the child; the insurance status and coverage of clients served; the length of time a child is
343 receiving assistance from a probation officer, including the time prior to and subsequent to the
344 filing of a request for assistance; the identity of any public or private organization to whom a
345 probation officer has referred a child or family for services; and any other information that may
346 assist the commissioner and the court in evaluating the availability and effectiveness of services
347 for children who are the subjects of requests for assistance pursuant to this section.

348 (2) The probation officer shall gather information concerning each child and
349 family referred to the officer which in both substance and format is compatible with and
350 complementary to the information gathered by the family resource centers and programs
351 providing community-based services pursuant to section 16T of chapter 6A, including but not
352 limited to the insurance status and coverage and other information that may assist the
353 commissioner of probation and the court in evaluating the availability and effectiveness of
354 services for children who are the subjects of requests for assistance pursuant to this section.

355 (3) The commissioner of probation shall report annually to the child
356 advocate, the Families and Children Engaged in Services advisory board, the house and senate
357 committees on ways and means, joint committee on children, families and persons with

358 disabilities and the joint committee on the judiciary on the assistance provided by probation
359 officers to children and families under Sections 39K to 39Y. The report shall be filed on October
360 1 of each year and shall include for each juvenile court district: the number of children and
361 families receiving assistance; their racial and ethnic identity, as identified by the child and family
362 members; an analysis of the services provided and an identification of gaps in services available;
363 the status or resolution of each request for assistance filed in the previous year; and the numbers
364 of children who are the subject of a request for assistance and also charged with a delinquency
365 matter in the previous year. The report shall exclude information that identifies or allows others
366 to identify any child or family who is the subject of a request for assistance.

367 Section 39S. Custody, Failure to Appear

368 If, after an evidentiary hearing, the court finds by a preponderance of the evidence that
369 a child stated to require assistance by reason of repeatedly running away from the home of his
370 parents or legal guardian or repeatedly failing to obey the lawful and reasonable commands of
371 his parent, is likely not to appear at the fact finding hearing or at the disposition hearing, the
372 court may order the child to be released upon such terms and conditions as it determines to be
373 reasonable or may place the child in the temporary custody of the department of children and
374 families. The court may not order the child to be placed in the custody of the department of
375 youth services. Prior to the court granting temporary custody to the department of children and
376 families, the court must make a written certification and determination that it is contrary to the
377 welfare of the child to be in his home, and that the department of children and families has made
378 reasonable efforts to prevent removal of the child from his home or the existing circumstances
379 indicate that there is an immediate risk of harm or neglect which precludes the provision of the
380 preventative services as an alternative to removal.

381 An order placing a child with the department under this section shall be valid for no
382 more than 15 days, upon which the child and his parents, both represented by counsel, must be
383 brought again before the court for a hearing on whether the order should be continued for another
384 15 day period. If the court decides to extend the order, it shall note in writing the detailed
385 reasons for its decision. Orders under this section may be in effect for no more than 45 days
386 total.

387 A child who is the subject of a request for assistance may not be confined in shackles
388 or similar restraints or in a court lockup facility in connection with any proceedings under
389 Sections 39K through 39Y, inclusive. A child who is the subject of a request for assistance shall
390 not be placed in a locked facility or any facility designated or operated for juveniles who are
391 alleged to be delinquent or who have been adjudicated delinquent. However, such child may be
392 placed in a facility which operates as a group home to provide therapeutic care for juveniles
393 regardless of whether juveniles adjudicated delinquent are also provided care in such facility.

394 Section 39T. Withdrawal of Request for Assistance

395 The petitioner may, withdraw the request for assistance at any time prior to a hearing
396 to determine the disposition of a request for assistance. A probation officer may at any time
397 recommend to the court that the request for assistance be dismissed upon a showing that
398 dismissal is in the best interests of the child.

399 Section 39U. Fact Finding Hearing

400 (a) The court shall hold a fact finding hearing in which it shall receive evidence from the
401 petitioner, the parent, the child, a representative from the family resource center or community
402 based services program, if involved with the family, and the probation officer. At any hearing

403 held to determine whether a child and family require assistance, the child and his attorney shall
404 be present and the parents or legal guardian shall be given an opportunity to be heard. The
405 petitioner who files the request for assistance shall bear the burden of presenting evidence
406 proving beyond a reasonable doubt that the child and family require assistance.

407 (b) Following a fact finding hearing the court shall either:

408 (1) dismiss the request for assistance because the circumstances which led to
409 the filing of a request for assistance have been resolved or the court finds that the child and
410 family will not benefit from the assistance being offered;

411 (2) adjourn the hearing for up to 60 days because it finds that the interests of
412 the child would best be served by continued informal assistance, in which case the court shall,
413 with the consent of the child and his parent, refer the child to a probation officer or refer the child
414 and family to the designated family resource center or community based services program for
415 additional assistance; or

416 (3) If the court finds the statements included in the request for assistance
417 have been proved at the fact finding hearing beyond a reasonable doubt, it may find that the child
418 and family named in such request for assistance to be a child and family requiring assistance and
419 schedule a hearing for disposition.

420 (c). No statements made by a child, family member, or by any other person during the
421 period of inquiries, conferences, or referrals may be admitted at any hearing, provided that the
422 child or a family member who made the statement may consent in writing to admitting such a
423 statement.

424 Section 39V. Disposition Conference and Hearing

425 (a). Upon making a finding that a child requires assistance after a fact finding hearing, the
426 court shall convene and may participate in a conference of the probation officer who conducted
427 the preliminary inquiry, a representative from the family resource center or other community
428 based services program, if involved with the family, the petitioner, a representative from the
429 child's school, the child's parent and his attorney, the child and his attorney, a representative of
430 the department of children and families, if involved with the family, and any other person who
431 may be helpful in determining the most effective assistance available to be offered to the child
432 and family. The probation officer shall present written recommendations and other persons at
433 the conference may present written recommendations to the court to advise the court on
434 appropriate treatment and services for the child and family, appropriate placement for the child,
435 and appropriate conditions and limitations of such placement.

436 At the conference and subsequent hearing on disposition, the child and his attorney shall
437 be present and the parents or legal guardian and the petitioner shall be given an opportunity to be
438 heard. The court may receive evidence as to the best disposition from all persons who
439 participate in the conference and any other person who may be helpful in determining an
440 appropriate disposition.

441 (b). The court shall then conduct a dispositional hearing. The court, taking into
442 consideration the evidence admitted at the hearing, the report of the probation officer, and the
443 physical and emotional welfare of the child, may make any of the following orders of
444 disposition:

445 (1) subject to any conditions and limitations the court may prescribe,
446 including: provisions for medical, psychological, psychiatric, educational, occupational and
447 social services; and for supervision by a court clinic or by any public or private organization
448 providing counseling or guidance; and for any other services deemed appropriate by the court,
449 permit the child to remain with his parents;

450 (2) subject to such conditions and limitations as the court may prescribe,
451 including, but not limited to provisions for services deemed appropriate by the court, including
452 but not limited to services described in clause (1), place the child in the care of any of the
453 following:

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

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

460 (3) subject to the provisions of sections 32 and 33 and with such conditions
461 and limitations as the court may recommend, place the child in the custody of the department of
462 children and families. If the court chooses to place the child in the custody of the department
463 then at the same time, the court shall consider the provisions of section 29C and shall make the
464 written certification and determinations required by said section 29C. When the court has placed
465 a child in the custody of the department, then the department:

466 (i) may not refuse out-of-home placement of a child if the
467 placement is recommended by the court provided that the court has made the written certification
468 and determinations required by said section 29C;

469 (ii) may not refuse out of home placement when requested by
470 the child if there is a substantiated history of abuse or neglect in the home by the parent or legal
471 guardian or any other person living in the home;

472 (iii) subject to clauses (i) and (ii), shall direct the type and
473 length of such out-of-home placement;

474 (iv) subject to clauses (i) and (ii), shall give due consideration
475 to the recommendations of the court. Whenever the department decides not to carry out the
476 recommendations of the court regarding placement and treatment of the child it shall present the
477 reasons for its decision and the alternative plan for treatment and placement in writing to the
478 court.

479 (4) The court may issue an order directing any state agency to provide
480 particular services to the family and child including but not limited to those services described in
481 clause (b)(1). If the agency is not able to comply with the order directing services then the
482 agency shall provide to the court a written statement of the reasons why it is unable to provide
483 those services. A copy of the statement shall be sent to the house and senate committees on
484 ways and means and the joint committee on children, families and persons with disabilities and
485 the office of the child advocate.

486 (5) Where the family or child are directed by the court to participate in
487 treatment or services which are eligible for coverage by an insurance plan under section 22 of

488 chapter 32A, section 10F of chapter 118E, section 47B of chapter 175, section 8A of chapter
489 176A, or section 4A of chapter Ch.176B Sec.4A, payment for such services shall not be denied if
490 the treatment or services otherwise meet the criteria for health plan coverage.

491 Section 39W. Prohibition on placements with the department of youth services or in
492 locked facilities

493 (a) Notwithstanding the provisions of subsection (b)2(ii) of section 39V, the court may
494 not order the child to be placed in the custody of the department of youth services.

495 (b) A child found to require assistance shall not be placed in a locked facility or any
496 facility designated or operated for juveniles who are alleged to be delinquent or who have been
497 adjudicated delinquent. However, such child may be placed in a facility which operates as a
498 group home to provide therapeutic care for juveniles regardless of whether juveniles adjudicated
499 delinquent are also provided care in such facility.

500 Section 39X. Duration of Assistance

501 (a) Any order of disposition under Section 39V shall continue in force for not more than
502 120 days; provided, however, that the court which entered the order may, after a hearing, extend
503 its duration for up to three additional periods, each such period not to exceed 90 days, if the court
504 finds that the purposes of the order have not been accomplished and that such extension would
505 be reasonably likely to further those purposes. The child and parents shall have the opportunity
506 to present evidence and rebut evidence presented at any extension hearing.

507 (b) No order shall continue in effect after the nineteenth birthday of a child named in a
508 request for assistance.

509 Section 39Y. Custodial Protection

510 (a) (1) A child may be taken into custodial protection for engaging in the
511 behaviors described in section 39M, only if such child has failed to obey a summons issued
512 pursuant to section 39N, or if the law enforcement officer initiating limited custody has probable
513 cause to believe that such child has run away from the home of his parents or legal guardian and
514 will not respond to a summons.

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

518 (3) After making every reasonable effort to give notice under paragraph (2),
519 the officer shall:

520 (i) release the child to the custody of his or her parent or other
521 person legally responsible for his or her care upon the written promise, without surety, of the
522 person to whose custody the child is released that he will bring the child to the court on the next
523 court date ; or

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

529 (iii) release the child to a representative of the department of
530 children and families, if the law enforcement officer has reason to believe that the child is or has
531 been in the care or custody of such department; or

532 (iv) take the child directly to the juvenile court in which the act
533 occasioning the taking into custodial protection occurred, provided that the officer affirms on the
534 record that he attempted to exercise the options identified in paragraphs (i), (ii), and (iii) of this
535 subsection, was unable to exercise these options, and the reasons therefore.

536 (4) In the absence of special circumstances, the officer shall release the child
537 to his parents or other person legally responsible for his care in accordance with paragraph (3)(i).

538 (5) A child may not be securely detained in a police station or town lockup.
539 At no time shall a child be placed in a locked facility or any facility designated or operated for
540 juveniles who are alleged to be delinquent or who have been adjudicated delinquent. However,
541 such child may be placed in a facility which operates as a group home to provide therapeutic care
542 for juveniles regardless of whether juveniles adjudicated delinquent are also provided care in
543 such facility.

544 (6) Notwithstanding the foregoing requirements for placement, any such
545 child who has been taken into custodial protection shall, if necessary, be taken to a medical
546 facility for treatment or observation.

547 SECTION 8. Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line
548 3 of the first paragraph, the word "sixteen" and inserting in place thereof the following word:-
549 eighteen.

550 SECTION 9. Chapter 741 of the Acts of 1965 is hereby amended by striking out, in
551 line 4 of the second paragraph, the word “sixteen” and inserting in place thereof the following
552 word:- eighteen

553 SECTION 10. Subject to appropriation, the department of elementary and secondary
554 education shall pilot a truancy prevention program using a restorative justice format in at least
555 one urban high school in the Commonwealth. The program shall include the use of healing
556 circles which allow family, neighborhood and school community members to be present; a
557 reparative board, comprised of peers and led by an adult; family group counseling, and mediation
558 or alternative dispute resolution with the child, family members and school representatives. The
559 program shall be designed to address the underlying causes both in and out of school which led
560 to truancy. The program shall be consistent with and organized according to the schools and
561 behavioral health framework developed by the department under section 19 of chapter 321 of the
562 acts of 2008. The department shall evaluate the effectiveness of the program in preventing
563 truancy and enhancing the child’s academic performance and report the results of that evaluation
564 to the board of elementary and secondary education, the house and senate committees on ways
565 and means, joint committee on education, the department of elementary and secondary education
566 and the child advocate.

567 SECTION 11. Subject to appropriation, the secretary of the executive office of health
568 and human services shall pilot a program to address the unique needs of girls who run away from
569 their parents and legal guardians.

570 SECTION 12. Within 12 months of the effective date of this act, the Commissioner of
571 Probation shall submit a report to the child advocate, the Families and Children Engaged in

572 Services advisory board, the house and senate committees on ways and means, joint committee
573 on children, families and persons with disabilities and the joint committee on the judiciary. The
574 report shall include for each juvenile court district: the number of children and families
575 receiving assistance from probation officers; the racial and ethnic identity of the children and
576 families, as identified by the child and family members; an analysis of the services provided and
577 an identification of gaps in services available; the status or resolution of each request for
578 assistance filed under section 39M of chapter 119; the number of children who are the subject of
579 a request for assistance and also charged with a delinquency matter in the previous year; and the
580 custody status of the child that is subject to the request for assistance, specifying if the child is in
581 the custody of the department of children and families or committed to the care of the
582 department of youth services. The report shall exclude information that identifies or allows
583 others to identify any child or family involved in the juvenile justice system.

584 Advisory board to guide implementation and monitor the new system

585 SECTION 13. (a) There shall be established within the executive office of health and
586 human services but not subject to the control of said executive office a Families and Children
587 Requiring Assistance Advisory Board, hereinafter called the advisory board. The advisory board
588 shall consist of the following members: 4 representatives of the executive office of health and
589 human services appointed by the secretary, one of whom shall be a representative of the
590 department of children and families, one of whom shall be a representative of the department of
591 youth services, one of whom shall be a representative of the department of mental health, one of
592 whom shall be a representative of the office of Medicaid; the child advocate or her designee; a
593 representative of the department of elementary and secondary education, appointed by the
594 commissioner; a juvenile court judge appointed by the chief justice of the juvenile court; a

595 probation officer assigned to a juvenile court, appointed by the commissioner of probation; 5
596 members appointed by the Governor, one of whom shall be a district attorney, one of whom shall
597 be a designee of the committee for public counsel services, one of whom shall be an independent
598 education advocate, one of whom shall be a private provider of services to families with children
599 who have behavioral health needs, and one who is a parent and is not an employee of the
600 commonwealth; one member appointed by the Speaker of the House and one member appointed
601 by the President of the Senate.

602 The secretary of health and human services and the chief justice of the juvenile court shall each
603 designate one board member to serve as co-chairs. All appointments to the advisory board shall
604 be made not later than thirty days after the effective date of this section. Any vacancy shall be
605 filled by the appointing authority. The chairpersons of the board shall schedule the first meeting
606 of the advisory board, which shall be held not later than sixty days after the effective date of this
607 section.

608 (b) The advisory board shall (1) monitor the progress being made by the executive
609 office of health and human services in developing a community based services network and
610 family resource centers under section 16T of chapter 6A; (2) monitor the progress being made
611 by the probation department in developing a system to collect data regarding requests for
612 assistance made and how they are resolved as required by section 39R of chapter 119; (3)
613 monitor the effectiveness of the juvenile court in providing assistance to children and families
614 who file or are the subjects of requests for assistance under sections 39K through 39Y of chapter
615 119; (4) provide advice with respect to such implementation upon the request of the chief justice
616 of the juvenile court, the commissioner of probation, the secretary of health and human services
617 or the general court and make recommendations to the governor annually whether there are

618 sufficient resources and support to continue with the activities identified in section 16T of
619 chapter 6A and sections 39K through 39Y of chapter 119.

620 (c) The secretary of the executive office of health and human services, the
621 commissioner of department of elementary and secondary education, the commissioner of
622 probation, and the chief justice of the juvenile court shall provide to the advisory board periodic
623 data reports which include information about families and children seeking or referred for
624 assistance and services provided. Within 12 months of the effective date of this act the advisory
625 board shall submit recommendations to the governor for funding and implementation activities
626 based on the review of the data submitted.

627 (d) The Families and Children Requiring Assistance Advisory Board shall annually,
628 not later than January 30th of each year, report in writing to the governor, the child advocate, the
629 house and senate committees on ways and means, and the joint committees on children and
630 families and persons with disabilities and on the judiciary on the progress made on the
631 implementation of section 16T of chapter 6A and sections 39K through 39Y of chapter 119. In
632 each annual report the advisory board shall report its expectation of progress toward the goals of
633 section 16T of chapter 6A which will be achieved in the following year. The annual report shall
634 also contain a recommended budget for the continued implementation activities to be undertaken
635 in the following year. The board will make a final report on the implementation of section 16T
636 of chapter 6A and sections 39K through 39Y of chapter 119 together with any recommendations
637 for legislative and regulatory changes not later than January 30, 2016. The report shall be public.
638 The board shall terminate following submission of the final report.

639 SECTION 14. (a) Within 24 months of the effective date of this act, the secretary of
640 the executive office of health and human services shall, with the advice of the advisory board
641 established in SECTION 13 of this act, design a model for the delivery of community based
642 services for children requiring assistance which shall include family resource centers and will
643 augment, be compatible with and integrated with existing community-based service systems for
644 children, as required by SECTION 2 of this act. Said model shall include a system to gather
645 data including: demographic information, insurance status and benefit coverage of clients served,
646 income documentation as needed to apply a sliding fee scale for payment or waiver of payment
647 for services, and other information that may assist the program and the secretary in providing
648 services and evaluating the effectiveness of family resource centers and community based
649 services programs, as required by SECTION 2 of this act. The model shall allow a child or
650 family to seek assistance from a family resource center or community based services program
651 directly and without referral. The model shall include procedures for referral to other services
652 whenever the staff of the family resource center or program offering community based services
653 determines that a family seeking or referred for services for a child has significant and complex
654 medical needs which cannot be met by the agency or where the child's behavior presents a
655 significant risk of harm that cannot be safely managed in the community.

656 (b) The advisory board will review the model design and make recommendations to
657 the secretary for pilot programs including recommendations of whether there is sufficient
658 information, workforce, and funding available to prepare and implement a pilot program.

659 (c) Subject to appropriation, within 36 months of the effective date of this act, the
660 secretary shall pilot family resource centers or a community based service system program in one
661 or more geographic regions of the commonwealth. The secretary, with the advice and assistance

662 of the advisory board shall analyze the effectiveness of these pilot sites in order to make
663 necessary changes to the program design in establishing network of family resource centers and
664 community based service programs throughout the commonwealth.

665 (d) Subject to appropriation, within 48 months of the effective date of this act, the
666 secretary shall establish a network of family resource centers and child and family service
667 programs throughout the Commonwealth to provide community-based services to families with
668 children requiring assistance, as required by section 16T of Chapter 16A.

669 (e) Within 30 days of the effective date of this act the commissioner of the department of
670 children and families shall designate one or more employees of the department to liaise with the
671 juvenile court and its clerks and judges and probation officers in order to coordinate access to the
672 resources of the department including but not limited to family resource centers and community
673 based services.

674 SECTION 15

675 The department of mental health, in collaboration with the department of youth services and the
676 department of public health shall conduct a comprehensive review of the mental health and
677 substance abuse service needs of adolescents in the care of or detained in the commonwealth
678 through the order of a juvenile court, including without limitation juveniles detained in the
679 department of youth services or in the custody of the department of children and families or
680 receiving services from the department of mental health, the court clinics, probation or otherwise
681 and including without limitation any such departments, offices, agencies or instrumentalities of
682 the commonwealth, and any private organizations or agencies operating under arrangement with
683 departments or agencies of the commonwealth. To complete said review the department of

684 mental health, the department of youth services, and the department of public health shall solicit
685 input from the office of probation, the department of children and families , the department of
686 elementary and secondary education, the juvenile court, the juvenile court clinics, the committee
687 for public counsel services, the department of mental retardation, the division of insurance,, the
688 division of medical assistance, the Massachusetts Association of District Attorneys, at least one
689 individual representing the interests of parents and families, at least one advocate for juvenile
690 justice, at least one representative of the service provider community, and at least one
691 representative of the Massachusetts Association of Health Plans. Said review shall be for
692 purposes of identifying the following:

693 (i) existing and proposed models of alternatives to detention, within and outside the
694 commonwealth, of providing mental health and substance abuse services to juveniles in
695 detention, and as alternatives to detention; community resources and other dependencies which
696 affect the appropriateness and effectiveness of models of alternatives to detention; and data
697 demonstrating the relative efficacy, cost –effectiveness, and effect on public safety of alternative
698 models;

699 (ii) unmet mental health and substance abuse needs of juveniles within the juvenile court
700 systems of the commonwealth, including an explicit comparison of the best practices and models
701 identified in paragraph a of this section with services and models available in the
702 commonwealth;

703 (iii) recommendations for addressing unmet needs, including without limitation through the
704 court clinics of the juvenile courts, and through contracting by the department of mental health
705 for community based services through community providers, or through consortia of community

706 providers, local government agencies and others operating in congruence with local courts
707 involved in the juvenile justice system.

708 (b) within 60 days after the effective date of this act, the department shall post to its external
709 website, for 30 days public comment, a proposed work plan to gather information necessary to
710 prepare the report required by this section, in consultation with clinical, philanthropic and
711 advocacy organizations for children, and providers of mental health and substance abuse services
712 for minors. The proposed work plan shall be directed to submit a final report to the legislature
713 and the governor no later than 270 days after the effective date of this act.

714 (c) Within 90 days after the effective date of this act, the department shall post its final work plan
715 on its external website.

716 (d) Within 210 days after the effective date of this act, the department shall post on its external
717 website, for public comment, a draft report responsive to this section.

718 (e) Within 270 days after the effective date of this act, the department shall post on its external
719 website, a final report responsive to this section, including a summary of all public comments
720 received, and responses to such comments. The department shall also that day provide a copy to
721 the governor, the president of the senate, the speaker of the house of representatives, the chairs of
722 the joint committees of mental health and substance abuse, and children, families and persons
723 with disabilities and the legislative mental health caucus.