

HOUSE No. 4063

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to real lives.

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. Chapter 19B of the General Laws, as appearing in the 2012 Official
2 Edition, is hereby amended by inserting the following sections:

3 Section 19.

4 (a) As used in this section, the following words shall have the following meaning:

5 (1) “Department”, the Department of Developmental Services.

6 (2) “DPPC”, the Disabled Persons Protection Commission.

7 (3) “Financial management service”, a service or function provided by an entity to assist
8 a participant in managing and directing funds in an individual budget and ensure that a
9 participant has the financial resources to implement the participant's ISP throughout an entire
10 year. A financial management service may include a service or function that facilitates the
11 employment of service and support workers by a participant, including, but not limited to,
12 payments, fiscal accounting, tax withholding, compliance with relevant state and federal
13 employment laws, verification of provider qualifications, conduct of criminal background
14 checks, and expenditure reports. The financial management service shall owe the participant a
15 fiduciary duty and shall meet minimum qualifications as determined by the department.

16 (4) “Independent facilitator”, a person who may be selected and directed by the
17 participant and who does not otherwise provide services, supports or goods to the participant
18 under the participant's ISP and is not employed by a person providing services, supports or goods
19 to the participant; provided, however, that the participant may use a state employee, including a
20 department caseworker or service coordinator, as an independent facilitator. The independent
21 facilitator shall owe the participant a fiduciary duty and meet minimum qualifications as

22 determined by the department. The independent facilitator may assist the participant to make
23 informed decisions with respect to an individual budget, locate, access and coordinate services,
24 supports or goods consistent with the participant's ISP, and otherwise realize objectives
25 consistent with self-determination. The independent facilitator may assist in identifying
26 immediate and long-term needs, developing options to meet those needs and consulting to or
27 advocating on behalf of the participant in the process of planning and developing the
28 participant's ISP and obtaining associated services, supports or goods. Costs of the services of
29 an independent facilitator shall be paid by participant out of participant's individual budget. An
30 independent facilitator shall obtain training with respect to self-determination and other
31 objectives and responsibilities described in this paragraph at the facilitator's own expense.

32 (5) "Individual budget", an allocation of government funds and resources under
33 participant's control in an amount to be calculated by the department based on the participant's
34 assessed needs in consultation with the participant and the participant's ISP team to facilitate
35 self-determination and specifically the selection, purchase and use by participant of services,
36 supports or goods identified or referenced in the ISP, which services, supports or goods may
37 include existing offerings from providers or local businesses, employment or other utilization by
38 participant of his or her choice of support workers and sources, or participant's negotiation of
39 unique service arrangements with local businesses and community resources. In setting an
40 individual budget, the department may require that wages earned by a participant be taken into
41 account. The participant's individual budget shall be attached to the participant's ISP.

42 (6) "Individual support plan" or "ISP", a written document developed by the department
43 with the fullest possible participation of the individual receiving department services and the
44 individual's ISP team and created to meet the individual's needs and objectives and ensure the
45 individual's health and safety. In instances in which the ISP, at the initiative of the individual
46 receiving department services or the individual's guardian, implements self-determination and
47 enables the individual to become a participant in the self-determination program, the ISP team
48 shall include the individual's guardian, if any; a representative of the individual's financial
49 management service, if any; the individual's independent facilitator, if any; the service
50 coordinator assigned by the department; and participant's chosen allies, including but not
51 limited to parents, friends and family.

52 (7) "Participant", an individual with disabilities receiving department services and, when
53 appropriate, an individual's parents, legal guardian, conservator or other authorized
54 representative, who has voluntarily agreed to take part in, and has been deemed eligible for, the
55 self-determination program.

56 (8) "Self-determination", the capacity to act in accord with one's own judgment and
57 preferences, specifically with respect to management of an individual budget and the selection,
58 purchase and use of services, supports and goods identified or referenced in a participant's ISP,

59 and to approve the timing and modes of interaction with providers, family, friends, community
60 and others, to the extent permitted by state and federal law and departmental regulation.

61 (9) “Self-determination program”, an approach to administering a model of service
62 delivery that recognizes that persons with disabilities have the same rights and responsibilities as
63 other citizens and grants self-determination and control of an individual budget to individuals
64 receiving department services.

65 (b) The department shall implement a statewide self-determination program that, subject
66 to an individual budget based on the person’s assessed needs, provides each participant with
67 significant flexibility, choice and control in purchasing home and community based services,
68 supports or goods.

69 (c) The department shall establish a statewide self-determination advisory board to
70 advise the department on efforts to implement, publicize, evaluate, improve and develop
71 information regarding the program. The advisory board shall have 21 members, including but not
72 limited to participants, family members, legal representatives or guardians of participants,
73 financial management services, independent facilitators, providers of direct services, supports
74 and goods, department staff, members of advocacy organizations, members representing general
75 taxpayers, and independent experts on consumer decision-making, consumer finance, self-
76 determination models, nonprofit and for-profit services markets and competition, and services
77 for persons with disabilities; provided, however, that more than 50 per cent of the advisory board
78 shall consist of participants, family members, independent experts, members of organizations
79 representing general taxpayers, and other persons financially independent of any entity providing
80 direct services, supports or goods to persons with disabilities; provided further, that the
81 department shall appoint members to the board, excepting that each of the following entities
82 shall appoint at least one member of the board: the DPPC, the office of the inspector general and
83 the office of the state auditor.

84 (d) Each of the department’s area offices shall establish a local volunteer advisory
85 committee to provide oversight of the self-determination program. The committee shall consist
86 of participants, family members, advocates and community representatives and leaders. The
87 committee shall review the development and operation of the self-determination program and
88 may make recommendations to the area office and the department.

89 (e) The department, in consultation with the DPPC, the statewide self-determination
90 advisory board and local advisory committees, shall develop informational materials and training
91 for relevant staff regarding self-determination. Training shall include discussion of the concept
92 and practice of self-determination and the mechanics of the self-determination program,
93 including but not limited to development of individual budgets, selection, purchase and use of
94 services, supports and goods by participants, provider and services purchase, selection and
95 supervision, and the respective roles of independent facilitators, financial management services,

96 and the department; and ways and means of identifying and reporting instances of suspected
97 waste, fraud and abuse.

98 (f) The department, in establishing and administering a self-determination program, shall:

99 (1) Facilitate and assist in the preparation of an ISP and individual budget by each
100 participant and, at participant's election, selection of a financial management service and
101 independent facilitator;

102 (2) Disclose, in a format that employs standard categories of services, supports and goods
103 and enables participant and participant's ISP team to compare various combinations of possible
104 budget expenditures, each unit cost, reimbursement or rate negotiated by or otherwise known to
105 the department that is likely to be charged against a participant's individual budget for each
106 specific service, support or good supplied by a specific provider, vendor or person in the event
107 participant makes use of said service, support or good as part of participant's ISP, including any
108 unit cost, reimbursement or rate negotiated by or otherwise known to the department likely to be
109 charged against said budget by a specific provider or vendor of financial management services or
110 independent facilitation services. In instances in which a specific provider, vendor or person
111 supplies participants a service, support or good whose unit cost, reimbursement or rate is not
112 known to the department, the department shall, beginning in the second year after said provider,
113 vendor or person is in receipt of \$25,000 or more in total department funds, calculate and
114 disclose the average cost, reimbursement or rate charged by said provider, vendor or person for
115 said service, support or good. However, the department shall not disclose any information that
116 may violate the privacy protections in section 7 of chapter 4, section 2 of chapter 66A, section 17
117 of chapter 123B or any other state or federal privacy law;

118 (3) Set minimum qualifications for financial management services and their employees,
119 contractors and agents, and independent facilitation services and their employees, contractors
120 and agents, and provide a list to participant of the persons or organizations qualified to provide
121 such services;

122 (4) Set individual budgets annually in a fair, equitable and transparent manner, in
123 consultation with participant and participant's ISP team and in accordance with paragraph (l) of
124 this section; provided, that each individual budget shall be set forth by line item or element
125 according to standard categories promulgated by the department of services, supports and goods;
126 provided, further, that each budget shall be further divided into services, supports and goods
127 whose unit cost, reimbursement or rate has been negotiated by the department versus services,
128 supports and goods whose unit cost, reimbursement or rate has not been negotiated by the
129 department; provided, further, that the department, participant and participant's ISP team shall
130 consult information on past spending by category but shall not be obligated to allocate any
131 individual budget accordingly; provided, further, that if the department, in accord with paragraph
132 (l), develops alternative methodologies for calculating individual budgets or for adjusting

133 individual budgets to address a participant’s change in circumstances, needs or resources, these
134 alternative methodologies shall result in individual budgets calculated in a fair, transparent, and
135 equitable manner;

136 (5) At its election and in consultation with the self-determination advisory board,
137 develop alternative methodologies for computing individual budgets, which may include a
138 method for adjusting individual budgets in accord with paragraph (l) of this section to address a
139 participant’s change in circumstances or needs, and all of which shall be applied in a fair,
140 transparent, and equitable manner, based on relevant participant characteristics and needs;

141 (6) Ensure that the dollar value of a participant’s individual budget is equivalent to the
142 amount the department would have spent providing services, supports or goods to participant if
143 the participant had chosen to receive services, supports and goods through a traditional service
144 model supported by the department;

145 (7) Allocate and outlay funds for individual budgets to participants in a timely manner so
146 as to allow participants to purchase services, supports or goods without experiencing an
147 interruption in their services;

148 (8) Promulgate standard forms on which the financial management service for each
149 participant shall annually report participant’s total expenditures for the year, which report shall
150 identify each specific provider, vendor or supplier of services, supports or goods and be
151 subdivided into the standard categories promulgated by the department of services, supports and
152 goods, and further subdivided into services, supports and goods whose unit cost, reimbursement
153 or rate was negotiated by the department versus services, supports and goods whose unit cost,
154 reimbursement or rate was not negotiated by the department;

155 (9) Designate a single entity to serve as the qualified financial management service for all
156 participants during the initial three years of the self-determination program; provided, further,
157 that said service shall negotiate with the department uniform rates for each given unit of service,
158 to be paid by each participant from participant’s individual budget; provided, further, that if the
159 department exercises the option described in this subparagraph, after the initial three years the
160 department may designate additional entities as qualified financial management services upon a
161 determination by the department that providing additional service options will not materially
162 increase participants’ costs or have a material adverse effect on the department’s oversight of
163 individual budgets; provided, further, that the department may subsequently reduce the number
164 of qualified financial management services to control costs or enhance oversight of individual
165 budgets; provided, however, the department may opt not to require a participant to use the
166 designated financial management service if the participant is using the “agency with choice
167 model” allowed for under section 1915(c) of the Social Security Act, codified at 42 U.S.C.
168 1396n et seq.;

169 (10) Monitor the expenditure of funds from individual budgets;

170 (11) Make significant efforts to ensure that participants in the program are reasonably
171 representative of the diversity of individuals eligible for services from the department;

172 (12) Facilitate individual and family understanding of self-determination and related
173 issues of budgeting, planning, service and provider selection, and staff and employee
174 management;

175 (13) Provide information on the department's web site about all service options,
176 including but not limited to self-determination and all options for residential placements. The
177 department shall also provide such information to a person eligible for services upon:

178 (A) notification to a person of priority for services;

179 (B) commencement of the development of an ISP;

180 (C) commencement of the renewal of an ISP;

181 (D) annual notification to persons who have declined an ISP of their option to participate
182 in the ISP; and

183 (E) the person's entry into the department's turning 22 program;

184 (14) Within six months of the effective date of this section and at least annually
185 thereafter, facilitate participant access to comparative information by requiring the submission
186 within forty-five days of information, in standard comma-separated values or "CSV" format,
187 from any provider, vendor or supplier of supports, services or goods in receipt of \$25,000 or
188 more in department funds during any calendar year within three years preceding the year in
189 which the department requires said information, which information shall enable participants and
190 ISP team members to develop individual budgets, compare providers, vendors and suppliers, and
191 make informed judgments regarding the comparative costs and features of each service, supply
192 and good available at each geographic location maintained by each provider, vendor or supplier.
193 Said submissions shall not impose burdens on providers, vendors and suppliers that are not
194 reasonably necessary to realize the purpose of this paragraph and shall not violate the privacy
195 rights of individual participants and their family members. Within ninety days of the
196 department's receipt of said information, the department shall make said information available
197 on department's website for download and re-use by interested parties, including but not limited
198 to participants, family members, guardians, financial management services, independent
199 facilitators, electronic and print publishers and software developers. However, the department
200 shall not disclose any information that may violate the privacy protections in section 7 of chapter
201 4, section 2 of chapter 66A, section 17 of chapter 123B or any other state or federal privacy law.
202 Said information shall be provided in standardized units and categories prescribed by the
203 department and shall include but need not be limited to the:

204 (A) Organizational structure, history and performance, including but not limited to (1)
205 complete legal name of the provider, vendor or supplier; (2) legal structure and organizational
206 type (e.g., nonprofit, LLC, for-profit, government); (3) accreditation and licensure status; and (4)
207 url web address location of recent formal audits, reports and investigations.

208 (B) Services, supports and goods offered at each geographic location by said provider,
209 vendor or supplier, including but not limited to (1) hours and schedules of availability of each
210 service, support or good; (2) clinical diagnoses or medical conditions of participants served by
211 each service, support or good; (3) provisions regarding the supervision, storage and dispensation
212 of prescription medications; and (4) any special or non-standard eligibility requirements or
213 restrictions.

214 (C) Facilities available and in good operating order at each geographic location, including
215 but not limited to (1) precise street address; (2) availability of or proximity to public
216 transportation; (3) availability of or proximity to grocery shopping and other commercial
217 activity; (4) hours of operation; (5) accessibility by mobility-impaired individuals; (6) for
218 residential facilities, number and type of bedrooms (e.g., single, doubles, triples); (7) options
219 regarding meal preparation, kitchen access and dining, including the availability of staff.

220 (D) Non-medical staff at each geographic location, including but not limited to (1)
221 number of staff in each staff category; (2) educational and professional attainments of staff; (3)
222 ratio of staff to client for each shift; and (4) average tenure, in years and months, of staff who
223 work at least 16 hours a week.

224 (E) Medical staff, services, hours or supports available at or nearby each geographic
225 location, including but not limited to (1) educational and professional attainments of medical
226 staff; (2) indications of whether listed staff, services and supports are available onsite or rather
227 nearby.

228 (F) Characteristics of individuals receiving services, supports and goods at each
229 geographic location, including but not limited to (1) number of clients; (2) age range;
230 (3) gender distribution; (4) average duration, in years and months, of their receipt of services,
231 supports and goods from said provider, vendor or supplier.

232 (15) In cooperation with advocacy organizations, hold meetings, briefings and
233 orientations, as it deems necessary, with providers, organizations and businesses to offer
234 introductory and on-going information on self-determination and discuss ways the department
235 can work with parties to establish and improve services, supports or goods that facilitate self-
236 determination; provided, however, that the department shall hold a meeting, briefing or
237 orientation at least once annually during the first three years of the self-determination program.

238 (16) Ensure that the participant and the participant’s ISP team comprehend and commit to
239 appropriate means of identifying, monitoring, preventing and reporting to the DPPC suspected
240 instances of abuse or neglect of participants, including financial abuse;

241 (17) Subject to privacy laws, including but not limited to chapter 19B and title 115 of the
242 Code of Massachusetts Regulations, provide information sufficient to enable third-party research
243 and academic organizations to survey, on a periodic basis, participants, guardians, family
244 members, financial management services, independent facilitators and present and potential
245 providers, vendor and suppliers regarding their experiences with and perceptions of self-
246 determination and the self-determination program, their satisfaction with the program, and their
247 views regarding potential improvements to the program concept or implementation. Individual
248 names and identities of participants and family members shall be kept confidential and shall not
249 be disclosed or included in any reports compiled under this paragraph;

250 (18) Provide, in consultation with the self-determination advisory board, an annual report
251 to the committee on ways and means of each branch of the general court and to the general
252 court’s joint committee on children, families and persons with disabilities, provided that
253 individual names and identities of participants and family members shall be kept confidential and
254 shall not be disclosed or included in a report compiled under this paragraph. Said report shall set
255 forth any alterations or improvements made by the department to the program under its existing
256 authority, any recommendations for statutory change the department may wish to make, and any
257 other matters the department may wish to mention. Said report shall assess the performance of
258 the providers, vendors and persons who have received funds for the provision of services,
259 supports and goods under this section. Said report shall also include the:

260 (A) Number and characteristics of participants in the self-determination program
261 during the year, further subdivided by geographic area within the state;

262 (B) Types and amounts of services, supports or goods purchased under the program,
263 using, in a manner that facilitates analyses and year to year comparisons, the uniform budget
264 categories developed under subparagraphs (2), (4), (6) and (9) of this paragraph, subdivided
265 further into services, supports and goods whose unit cost, reimbursement or rate was negotiated
266 by the department versus services, supports and goods whose unit cost, reimbursement or rate
267 was not negotiated by the department;

268 (C) Ranges and averages for expenditures from all individual budgets, inclusive
269 of any adjustments to individual budgets made pursuant to paragraph (l) of this
270 section;

271 (D) Number of participants who withdrew voluntarily from the program;

272 (E) Number of participants who requested changes in type of service, support or good or
273 changes of providers pursuant to section 19 or 20 of this chapter and an analysis of why such
274 changes might have been made;

275 (19) Provide, except as is necessary to comply with privacy laws, any information
276 requested by the attorney general, state auditor, inspector general, senate or house committees on
277 post audit and oversight or the DPPC to investigate suspected neglect, or physical, emotional or
278 financial abuse. The superior court shall have jurisdiction over any disputed request for such
279 information.

280 (g) Participation in the program shall be available to any person, including any person
281 with complex medical or behavioral conditions, any person with profound intellectual
282 impairments and any person qualified for services through special eligibility, who is eligible to
283 receive services from the department, whose election into a self-determination program is
284 eligible for federal financial participation as determined by the Centers for Medicare and
285 Medicaid Services, and who agrees to the following terms and conditions:

286 (1) Participant and participant's ISP team shall be responsible for implementation of the
287 ISP, including the hiring or purchasing of necessary services, supports or goods;

288 (2) Participant shall utilize the services of a financial management service of participant's
289 choosing, subject to any qualifications for financial management services set by the department;

290 (3) Participant and participant's ISP team members shall attend an orientation prior to
291 enrollment, the subject matter of which shall include but need not be limited to the concept and
292 practice of self-determination, related issues of budgeting, planning, services and provider
293 selection, staff and employee management, and the respective roles of independent facilitators,
294 financial management services, and the department; provided, however, that each member of the
295 ISP team shall not be required to attend more than one such orientation each year; and

296 (4) Participant shall comply with all other terms and conditions for program participation
297 set by the department.

298 (h) An individual who is not MassHealth-eligible may participate in the self-
299 determination program provided that all other program eligibility requirements are met and the
300 participant's purchase or hiring of services, supports or goods is otherwise eligible for federal
301 financial participation.

302 (i) Participation in the self-determination program shall be voluntary. An individual may
303 choose to take part in or exit the program at any time. The department shall not require or
304 prohibit participation in the program as a condition of eligibility for, or delivery of, services,
305 supports or goods otherwise available.

306 (j) If at any time the department determines that a participant is no longer eligible to
307 continue in, or a participant voluntarily chooses to exit, the self-determination program, the
308 department shall provide for the participant's transition to other eligible services or supports.
309 This transition shall include the development of a new ISP that reflects the services, supports and
310 goods necessary to meet the individual's needs and objectives. The department shall ensure that
311 there is no gap in services, supports or goods during the transition period.

312 (k) An individual determined to be ineligible for, or who voluntarily exits, the self-
313 determination program shall be permitted to return to the program upon meeting all applicable
314 eligibility criteria, provided that an individual who has voluntarily exited the program shall not
315 return to the program for at least 12 months. During the first three years of the program, the
316 individual's right to return to the program shall be conditioned on the availability of appropriate
317 services, supports and goods.

318 (l)(1) Except as provided in paragraph (4) below, the department, in consultation with
319 participant and participant's ISP team, shall determine the initial and any revised individual
320 budget for the participant using the following methodology:

321 (A)(i) Except as specified in clause (ii), for a participant who is a current consumer of
322 department services, the individual budget shall provide a dollar amount equal to the total dollar
323 amount expended on services, supports and goods for participant over the most recently available
324 twelve months, adjusted for changes to the participant's assessed needs and any recent or
325 upcoming increases or decreases in unit costs, reimbursements or rates negotiated by or
326 otherwise known to the department.

327 (ii) An adjustment may be made to the amount specified in clause (i) if:

328 (I) The department, in consultation with the ISP team, determines that an adjustment to
329 this amount is necessary due to a change in the participant's circumstances, needs, or resources
330 that will result in an increase or decrease in the purchase of services, supports or goods, or the
331 department, in consultation with the ISP team, identifies prior needs or resources that were
332 unaddressed in the existing ISP; and

333 (II) The department certifies on the individual budget document that all expenditures
334 authorized therein, including any adjustment, would have occurred regardless of the individual's
335 participation in the self-determination program.

336 (iii) An individual budget shall not be increased to cover the cost of an independent
337 facilitator.

338 (B) For a participant who is either newly eligible for department services or for whom the
339 total amount expended on services, supports and goods over the most recently available twelve
340 months is not available to the department, the individual budget shall be calculated as follows:

341 (i) The ISP team, in consultation with the department, shall determine the services,
342 supports and goods needed by participant;

343 (ii) The department shall calculate the costs of providing said services, supports or goods
344 by using, when available, the unit cost, reimbursement or rate, negotiated by or otherwise known
345 to the department, for said services, supports and goods, adjusted for any recent or upcoming
346 increases or decreases in unit costs, reimbursements or rates negotiated by or otherwise known to
347 the department; provided that, in instances in which a participant elects to procure a service,
348 support or good whose unit cost, reimbursement or rate is not negotiated by or otherwise known
349 to the department, the department shall make its best efforts to ascertain and include in the
350 budget the average or typical cost of said service, support or good; provided, further, that the
351 department may allow an amount differing from the unit cost, reimbursement or rate negotiated
352 by or otherwise known to the department or the ascertained average or typical cost if the
353 department determines that the participant has a unique need necessitating a higher or lower
354 amount;

355 (iii) The department shall certify on the individual budget document that the amounts set
356 forth therein would have been expended regardless of the individual's participation in the self-
357 determination program; and

358 (iv) Individual budgets calculated in accord with this paragraph shall not be increased to
359 cover the cost of a financial management service or an independent facilitator;

360 (2) The amount of the individual budget shall be available to the participant each year for
361 the purchase of program services, supports or goods. An individual budget may be recalculated
362 based on the assessed needs of the participant.

363 (3) Employees of entities providing services, support and goods to participants shall be
364 eligible for a proportional amount of any additional appropriation designated for the increase of
365 salary for workers employed by the department or its providers.

366 (4) The department may increase or decrease individual budgets to reflect any change in
367 appropriations to the department to provide services; provided, however, that any change to an
368 individual budget shall be proportional to the overall change in appropriations.

369 (m)(1) Within 12 months of this section taking effect, the department shall apply for
370 federal Medicaid funding for the self-determination program by:

371 (A) Applying for a state plan amendment;

372 (B) Applying for an amendment to a current home- and community-based waiver for
373 individuals with developmental disabilities;

374 (C) Applying for a new waiver; or

375 (D) Seeking to maximize federal financial participation through other means.

376 (2) In adopting or modifying regulations pursuant to the authority granted to the
377 department by this section, the department shall endeavor to maximize federal financial
378 participation in, or funding or reimbursement for, the self-determination program.

379 (3) The department's implementation of the self-determination program created by this
380 section shall be contingent upon approval of federal funding.

381 (n) Within five years of the effective date of this act, the department shall contract with
382 an independent research organization or academic institution to evaluate the self-determination
383 program authorized by this section and recommend any improvements that may, in the
384 evaluator's judgment, be warranted.

385 (o) Each financial management service shall provide the participant and the department
386 with a monthly individual budget statement, which statement shall present budget line items or
387 elements in accord with the standard categories of services, supports and goods promulgated by
388 the department pursuant to this section, further subdivided into services, supports and goods
389 whose unit cost, reimbursement or rate was negotiated by the department versus services,
390 supports and goods whose unit cost, reimbursement or rate was not negotiated by the department,
391 and setting forth the total amount of funds allocated by category for the year, the amount spent
392 by category in the previous month, the amount of cumulative spending by category for the year,
393 and the amount by category that remains to be spent.

394 (p) The department, in consultation with the self-determination advisory board, shall
395 determine which persons shall be subject to criminal background checks as a condition of
396 providing services, supports or goods to participants, and shall promulgate or amend its
397 regulations as necessary to require and implement said criminal background checks; provided,
398 however, that in no circumstances shall a participant be required to pay the cost of a criminal
399 background check required under this section.

400 (q)(1) Any member of a participant's ISP team, any member of the advisory board
401 referenced in paragraph (c), any member of a local volunteer advisory committee referenced in
402 paragraph (d), any mandated reporter of the DPPC as defined in section 1 of chapter 19C and any
403 other person involved in preparation or implementation of the self-determination plan who
404 suspects any financial abuse, including but not limited to mismanagement, misappropriation or
405 waste of a participant's self-determination funds shall immediately report these suspicious
406 actions or inactions to the DPPC. The DPPC shall evaluate this report and forward said report to
407 the appropriate law enforcement or state agency according to the geographic location of the
408 alleged crime or alleged perpetrator, but in all cases shall forward all reports of suspected
409 financial abuse to the state auditor. The DPPC shall provide an annual itemization to the joint
410 committee on children, families and persons with disabilities detailing the number, types and

411 geographic locations of specific reports and the agency or agencies to which the complaint was
412 referred.

413 (r) The attorney general, in consultation with the DPPC and the department, shall
414 recommend to the joint committee on children, families and persons with disabilities, the senate
415 and house committees on ways and means and the senate and house committees on post audit
416 and oversight laws and regulations that provide penalties for financial abuse, mistreatment,
417 waste, abuse, fraud or criminal activity involving self-determination and the self-determination
418 program, which penalties may include but need not be limited to loss of qualifications to provide
419 services to participants in the self-determination program, removal of guardianship, and recovery
420 of any individual budgets funds lost; provided, however, that the department shall enact in
421 regulations those penalties recommended by the attorney general which the department has the
422 legal authority to implement.

423 (s) The department, as it determines necessary, shall adopt or modify regulations to
424 implement this section.

425 (t) The state auditor, using the powers granted to it under section 12 of chapter 11, shall
426 audit the self-determination program at least once during the first four years of its operation and
427 periodically thereafter, as the state auditor determines necessary.

428 (u) The inspector general, using the powers granted to it under chapter 12A, shall audit
429 the self-determination program at least once during the first four years of its operation and
430 periodically thereafter, and shall make recommendations to the department, the senate and house
431 committees on ways and means, and the joint committee on children, family and persons with
432 disabilities with respect to any changes in law or regulation that may improve the efficiency of
433 the program, decrease costs, improve services or prevent waste, fraud or abuse.

434 (v) The attorney general or the department may independently investigate any allegations
435 of mistreatment, waste, abuse, fraud or breach of any explicit or implied duties under this
436 section; provided, further, that the attorney general or the department, on behalf of a participant,
437 may seek to recover any monies lost because of mistreatment, waste, abuse, fraud or breach of
438 any explicit or implied duties under this section in the superior court.

439 Section 20. Each provider, vendor and personal supplier of services, supports or goods in
440 receipt of \$25,000 or more in department funds during any one calendar year within the three
441 years preceding a year in which the department requires said provider, vendor or supplier to
442 submit information under section 19 of this chapter shall submit said information to the
443 department in standard CSV format for each geographic location maintained by provider, vendor
444 or supplier and shall grant an unrestricted right of publication and re-use of said information by
445 department, participants, family members, guardians, financial management services,
446 independent facilitators, electronic and print publishers and software developers. Said
447 information shall be of the nature and characteristics defined by the department, shall be

448 provided in standardized units and categories as defined by the department, and shall be updated
449 by the provider, vendor or supplier at least annually or upon the occurrence of material changes
450 in the provider's, vendor's or supplier's offerings, whichever comes first.