

***SENATE . . . . . No. 01963***

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The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven.  
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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:

SECTION 1. Chapter 6A of the General Laws is hereby amended by inserting after section 16S the following section:-

Section 16T. (a) For the purpose of this section the following words shall have the following meanings:-

“Child requiring assistance”, as defined in section 21 of chapter 119.

“Community-based services”, services, including coordination of services, designed to assist families with children requiring assistance so that, if appropriate, such children may be able to: (i) continue residing with their families in their home communities; (ii) continue as students in their community schools; and (iii) enjoy strengthened relationships with their families.

“Family with a child requiring assistance”, as defined in section 21 of chapter 119.

“Habitually truant”, as defined in section 21 of chapter 119.

“Secretary”, the secretary of health and human services.

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

(1) establish a network of child and family service programs and family resource centers throughout the commonwealth to provide community-based services to families with children requiring assistance in accordance with subsection (c);

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

(3) to promote efficiency and encourage access to existing services, include in the network of community-based services and family resources: organizations that are part of the comprehensive community-based behavioral health delivery system coordinated by the secretary under section 16S; organizations that provide services or have experience in coordinating access to community-based services such as local schools; other local public agencies and private organizations; and local medical, behavioral or mental health care providers;

(4) coordinate the services provided by the network and in the family resource centers including, but not limited to, outreach, intake, screening, assessment and referral to services;

(5) encourage cooperation among local providers as needed to provide the full complement of services required under this section;

(6) monitor and provide technical assistance to family resource centers and providers of community-based services;

(7) require the use of a standard intake screening and assessment tool to evaluate all families and children seeking community-based services which shall identify the family's strengths, resources and service needs including, but not limited to, mental health, behavioral health or substance abuse treatment, basic family shelter, clothing and food needs, child care needs, health insurance status, legal issues, education placement and child protection; and

(8) create a data collection system for use by programs within the community-based services network and family resource centers which shall maintain the privacy of clients served, assist programs and the secretary in addressing the needs of the population to be served, collect information including, but not limited to, insurance status and benefit coverage of clients served, income documentation as needed to apply a sliding fee scale for payment or waiver of payment for services and such other information deemed necessary to assist the program and the secretary in providing services, identifying service needs and gaps and evaluating the effectiveness of family resource centers and the community-based services network.

(c) The network of community-based services programs and family resource centers shall: assist families so that, whenever possible, children may continue residing with their families in their home communities; assist families to enable children to continue as students in their community schools; strengthen the relationships between children and their families; and provide coordinated, comprehensive, community-based services for children at risk of dropping out of school, committing delinquent acts or engaging in behaviors which impede the likelihood of leading healthy, productive lives.

Services offered through the network shall include, but are not limited to, treatment for or assistance with: eligibility determinations, behavioral, medical and mental health needs, special education evaluation, remedial education services, assistance with insurance issues, mentoring, family and parent support, civic engagement and community service, after school and out-of-school opportunities, residential programs, crisis management and case management.

(d) Any documentation of services provided to the family and child through the network of community-based services or in the family resource centers shall not be public records under clause Twenty-sixth of section 7 of chapter 4. Except as otherwise required by law, including laws related to the reporting of suspected abuse or neglect under section 51A of chapter 119, statements made by the family and child while receiving services from the network of community-based services shall be treated as confidential and may not be used in any proceedings without the written consent of the person making the statement. Information about the child and family requiring assistance, including interactions with service providers and protected health information services, may be shared among providers of community services providing such services to the child and family as well as with any agency within the executive office of health and human services providing services to the child as needed to coordinate treatment and provide appropriate case management in accordance with applicable state and federal privacy laws. Information about the child and family, including interactions with service providers and protected health information, may be shared among members of the case team as needed to coordinate treatment and provide appropriate case management, to the extent permitted under applicable state and federal law, unless the child or family decline in writing to permit such information sharing in accordance with state and federal privacy laws.

(e) Participation in community-based services and use of the family resource centers shall be pursuant to a voluntary agreement of the parent, legal guardian or custodian and the child; provided, however, that provision of community-based services may be contingent upon such parent, legal guardian or custodian agreeing to pay for such services or consenting to allow covered services to be billed to applicable third party payers, including insurance providers.

(f) Except as provided herein, a school administrator shall refer a student to a family resource center or a community-based services program, if such programs have been established in the geographic region where the student resides, at the same time that the administrator notifies such student and the parent, legal guardian or custodian thereof that such student is to be expelled for failure to comply with the lawful and reasonable rules of the school. After providing the process that is due to such student, including an expulsion hearing if requested under section 37H of chapter 71, the school administrator shall consider the outcome of the community-based services if the student provides such outcome information to the school. After an expulsion is imposed, the student may continue to provide information relative to the outcome of any community-based services rendered, and the school administrator shall consider the outcome of any community-based services rendered any time such information is provided. Notwithstanding the outcome of any community-based services, school districts shall make available to expelled students educational services designed to lead to re-entry to a regular education program or to a high school diploma.

A school shall refer a child and family to a department of education certified truancy program, if such a program is available at the school, before referring the child and family to community-based services or a family resource center for habitually truant behavior. Whenever a child or family seeks assistance from a family resource center or community-based service network program for habitually truant behavior, the program staff shall assist the family in gaining access to a certified truancy program.

(g) Nothing in this section shall diminish or interfere with the rights and protections afforded to students with disabilities under federal and state special education laws.

SECTION 2. Chapter 69 of the General Laws is hereby amended by inserting after section 1N the following section:-

Section 1O. The department shall adopt regulations establishing a truancy prevention program certification process, consistent with the behavioral health framework developed pursuant to section 19 of chapter 321 of the acts of 2008 and shall require that the truancy prevention program evaluate the level of out-of-school support for students and families and address conditions that make students more likely to become truant including, but not limited to, previously unidentified or inadequately addressed special needs, bullying and harassment. School districts shall establish a truancy prevention program which meets the requirements for certification adopted by the department.

SECTION 3. Section 21 of chapter 119 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “child in need of services” and inserting in place thereof the following definition:-

“Child requiring assistance”, a child between the ages of 6 and 18 who: (i) repeatedly runs away from the home of such child’s parent, legal guardian or custodian; (ii) repeatedly fails to obey the lawful and reasonable commands of such child’s parent, legal guardian or custodian, thereby interfering with the parent’s, legal guardian’s or custodian’s ability to adequately care for and protect such child; (iii) repeatedly fails to obey the lawful and reasonable regulations of such child’s school; or (iv) who is habitually truant;

SECTION 4. Said section 21 of said chapter 119, as so appearing, is hereby further amended by inserting, after the definition of “Department”, the following 2 definitions:-

“Family requiring assistance”, a parent, guardian, custodian, sibling and any relative or caretaker responsible for a child requiring assistance.

“Habitually truant”, a school-aged child, not excused from attendance in accordance with the lawful and reasonable regulations of such child’s school, who willfully fails to attend school for more than 8 school days in a quarter.

SECTION 5. Said chapter 119 is hereby further amended by striking out sections 39E to 39J, inclusive, as so appearing, and inserting in place thereof the following 15 sections:-

Section 39K. The juvenile court department shall have jurisdiction over any proceeding commenced under section 39M alleging that a child and his family requires assistance. The jurisdiction of the Boston juvenile court for the subject matter of this section shall extend to the territorial limits of Suffolk County.

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

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

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

Section 39M. (a) A proceeding to determine whether or not a child and his family requires assistance is initiated by the filing of a request for assistance.

(1) The request for assistance shall state on the petitioner's information and belief:

(i) that the child repeatedly runs away from the home of such child's parent, legal guardian or custodian or repeatedly fails to obey the lawful and reasonable commands of the child's parent, legal guardian or custodian thereby resulting in the parent's, legal guardian's or custodian's inability to adequately care for and protect the child, or that the child repeatedly fails to obey the lawful and reasonable regulations of the child's school or is habitually truant;

(ii) that the child was under the age of 19 at the time the acts which provide the impetus to make a request for assistance took place; and

(iii) that the child and such child's family require assistance.

(2) The request for assistance shall state the specific acts upon which the request for assistance is based and the time and place such acts are believed to have occurred.

(3) If the petitioner is a school district, the request for assistance shall additionally include the following:

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

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

(4) If the petitioner is a parent, legal guardian or custodian, the request for assistance shall additionally include documentation that the family was informed that there may be community-based services programs, family resource centers

or other entities which may assist the child including, but not limited to, any entities established under section 16T of chapter 6A, and that: (i) the family was referred to such services; (ii) the family declined such services; or (iii) such services were unavailable.

(b) The following persons may initiate a request for assistance proceeding:

(1) a police officer, if the basis for the request for assistance arose in the course of the officer's official duties;

(2) a parent, legal guardian or custodian; or

(3) a school district, if the request for assistance states that the child repeatedly fails to obey the lawful and reasonable regulations of such child's school or is habitually truant;

(c) (1) When a request for assistance is presented to the clerk for filing, the clerk shall, with the assistance of the secretary of health and human services or a designee thereof, determine whether or not the child and family named in the petition have received services from a community-based services program or a family resource center established under section 16T of chapter 6A or other entity available to provide services to the child or family. If the child and family have participated in such services, the clerk shall attach to the request a statement of the petitioner that identifies the family resource center or community-based services program that provided assistance. If the child and family have not participated in such services, the clerk shall inform the petitioner that the petitioner may delay filing the request for assistance and choose to first refer the child and his family to a family resource center, community-based services program or other entity designated by the secretary of health and human services to provide community-based services in the juvenile court district where the child resides and return to court at a later time to file a request for assistance, if needed.

(2) (i) If the petitioner is a parent, legal guardian or custodian, the clerk shall provide such petitioner the contact information, if available, for a family resource center, community-based services program or other entity designated by the secretary of health and human services. If such services are available, the clerk shall contact the family resource center, community-based services program or other entity designated by the secretary of health and human services on the parent's, legal guardian's or custodian's behalf in order to complete a referral to such services, unless the parent, legal guardian or custodian declines to accept such a referral or indicates a preference to contact the family resource center, community-based services program or other entity directly. If the parent, legal guardian or custodian declines to be referred to such center, program or other entity, the clerk shall provide to the parent, legal guardian or custodian informational materials, prepared by the court. Such materials shall include the types of orders that the court may issue and the possibility of changes in the custody

of the child and may include an explanation of the services available through the court process and the manner in which those services are delivered. Upon receipt of: (A) the parent's, legal guardian's or custodian's signed statement declining a referral to such services or documentation from the executive office of health and human services that such services are not available in the juvenile court district where the child resides; and (B) a statement that the parent, legal guardian or custodian understands the types of services available through the court process, the manner in which those services may be delivered, the types of orders that the court may issue and the possibility of changes in the custody of the child, the clerk may accept the request for assistance and shall attach such signed statement to the petition.

(ii) If the petitioner is a police officer, the clerk shall contact a family resource center, community-based services program, or other entity designated by the secretary of health and human services in order to complete a referral to such services before accepting the request for assistance for filing, unless the officer provides a written statement that the officer believes that referral to a family resource center, community-based services program or other entity prior to filing the request for assistance would present a risk of harm to the child and detailing the reasons for this belief. Upon receipt of such written statement, the clerk shall: (A) immediately contact the designated family resource center, community-based services program or other entity designated by the secretary of the executive office of health and human services to provide notice that a request for assistance has been prepared for filing; (B) create a docket for the matter; and (C) request that the chief probation officer, or his designee, conduct an immediate inquiry and report to the clerk, or a judge if the clerk is not available, with advice on how to proceed to obtain assistance for the child. After considering such advice, the clerk may accept the request for assistance for filing.

If a family resource center, community-based services program or other entity designated by the secretary of health and human services is not available in the juvenile court district where the child resides, the clerk shall: (A) create a docket for the matter; and (B) request that the chief probation officer, or his designee, conduct an immediate inquiry and report to the clerk, or a judge if the clerk is not available, with advice on how to proceed to obtain assistance for the child. After considering such advice the clerk may accept the request for assistance for filing.

Section 39N. (a) Except as provided in subsection (b), upon the filing of a request for assistance pursuant to this section, the court shall cause a copy of the request for assistance and a summons to be issued, requiring the child and each parent with legal custody, legal guardian or custodian, to appear at the court at a time and place named to address the request for assistance. If the safety or well-being of the child or a parent without primary custody is in danger, only the primary custodial parent shall be required to appear.



(b) In proceedings commenced by a parent, legal guardian or custodian, the court shall, at the time the request is filed, notify such parent, legal guardian or custodian, in writing, of the time and place that the request for assistance shall be heard to ensure such parent, legal guardian or custodian has a copy of the request for assistance. If a parent with legal custody lives separately from the parent, legal guardian or custodian who commenced the proceedings, the court shall cause a copy of the request for assistance and a summons to be issued, requiring the child and the parent with legal custody who did not initiate the request for assistance to appear to address the request for assistance at the court at a time and place named, except in cases in which the safety or well-being of the child or other parent with legal custody is in danger, only the primary custodial parent shall be required to appear.

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

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

Section 39O. Whenever a request for assistance is filed, the clerk, or a judge if the clerk is not available, shall hold a hearing as soon as possible, but not later than 15 days after the creation of a docket. At that hearing, the clerk, or a judge if the clerk is not available, shall receive the evidence from the petitioner and the child and, if a probation officer has been involved in the matter, the recommendation of such probation officer. The clerk or the judge shall determine: (i) whether or not there is probable cause to believe that such child and family are in need of assistance; and (ii) whether it is in the best interest of the child for the matter to proceed to a fact finding hearing. The clerk or judge shall then either dismiss the request for assistance or create a docket for the matter, unless a docket has already been created under subsection (b) of section 39M, and refer the child and family to a probation officer for the preliminary inquiry required under section 39R. When a request for assistance is dismissed under this section, the court shall enter an order directing expungement of any records of the request and related proceedings maintained by the clerk, the court, the department of criminal justice information services, the court activity record index and the probation department that directly pertain to the request for assistance.

Section 39P. At the conclusion of the probable cause hearing required by section 39O, the clerk shall set a date for a fact finding hearing not more than 90 days from the date the request for assistance was filed. The court may postpone the fact finding hearing upon the request of the parent, legal guardian, custodian, child, petitioner or probation officer for an additional 90 days after the expiration of the initial 90 day period.

Section 39Q. (a) When a request for assistance is filed, the child who is named in such request shall be informed that he has a right to counsel at all hearings and, if the child is not able to retain counsel, the court shall appoint counsel for the child. The clerk shall cause a copy of the request for assistance and notice of the time and place of the fact finding hearing to be delivered to counsel at the time of appointment.

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

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

Section 39R. (a) When requested by the court or a clerk, or when a child has been referred under section 39O, the chief probation officer or his designee shall conduct a preliminary inquiry to determine whether in his opinion the best interests of the child and family require that crisis intervention services be provided to the child and family.

The probation officer in his discretion may:

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

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

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

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

(b) If the child or his parent, legal guardian or custodian fail to participate in good faith with the referrals or conferences arranged by the probation officer or if the probation officer is not able to refer the child or his parent, legal guardian or custodian to an appropriate public or private organization which is willing and able to provide appropriate services, the probation officer shall so certify in writing and present these findings to the clerk or judge. Upon receipt of such certification, the judge may order a hearing in accordance with section 39U.

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

(2) The probation officer shall gather information concerning each child and family referred to the officer including, but not limited to, insurance status and coverage and other information that may assist the commissioner of probation and the court in evaluating the availability and effectiveness of services for children who are the subjects of requests for assistance pursuant to this section.

Section 39S. If, after an evidentiary hearing, the court finds by a preponderance of the evidence, that a child stated to require assistance by reason of repeatedly running away from the home of his parent, legal guardian or custodian or repeatedly failing to obey the lawful and reasonable commands of his parent, legal guardian or custodian is likely not to appear at the fact finding hearing or at the disposition hearing, the court may order the child to be released upon such terms and conditions as it determines to be

reasonable or, if the standards below are met, may place the child in the temporary custody of the department of children and families. The court may not order the child to be placed in the custody of the department of youth services. Prior to the court granting temporary custody to the department of children and families, the court must make a written certification and determination that it is contrary to the best interests of the child be in the child's home or current placement, and that the department of children and families has made reasonable efforts to prevent removal of the child from the child's home or the existing circumstances indicate that there is an immediate risk of harm or neglect which precludes the provision of preventative services as an alternative to removal.

An order placing a child with the department under this section shall be valid for not more than 15 days, upon which the child and his parents, legal guardians or custodians, represented by counsel, must be brought again before the court for a hearing on whether the order should be continued for another 15 day period based on a preponderance of the evidence. If the court decides to extend the order, it shall note, in writing, the detailed reasons for its decision. Orders under this section may be in effect for not more than 45 days total.

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

Section 39T. The petitioner may withdraw the request for assistance at any time prior to a hearing to determine the disposition of a request for assistance. A probation officer may at any time recommend to the court that the request for assistance be dismissed upon a showing that dismissal is in the best interests of the child.

Section 39U. (a) Subsequent to a determination of probable cause that a child and family require assistance under section 39O, and in accordance with section 39P, the court shall hold a fact finding hearing in which it shall receive evidence from the petitioner, the parent, legal guardian or custodian, the child, a representative from any family resource center or community-based services program involved with the family and any probation officer involved with the family. At any hearing held to determine whether a child and family require assistance, the child and his attorney shall be present and the parent, legal guardian or custodian shall be given an opportunity to be heard. The petitioner who files the request for assistance shall bear the burden of presenting

evidence, proving by clear and convincing evidence, that the child and family require assistance.

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

(1) dismiss the request for assistance because the circumstances which led to the filing of a request for assistance have been resolved or the court finds that the assistance being offered poses no likelihood of benefit to the child and family;

(2) adjourn the hearing for up to 60 days because it finds that the interests of the child would best be served by continued informal assistance, in which case the court shall, with the consent of the child and his parent, legal guardian or custodian, refer the child to a probation officer or refer the child and family to a designated family resource center or community-based services program, if one is available in the juvenile court district where the child resides, for additional assistance; or

(3) if the court finds the statements included in the request for assistance have been proved at the fact finding hearing by clear and convincing evidence, it may find that the child and family named in such request for assistance to be a child and family requiring assistance and schedule a hearing for disposition.

(c) No statements made by a child, family member or by any other person during referrals to community-based services, family resource centers or other entities designated by the secretary of health and human services may be admitted at any hearing, provided that the child or a family member who made the statement may consent in writing to admitting such a statement.

Section 39V. (a) Upon making a finding that a child requires assistance after a fact finding hearing, the court shall convene and may participate in a conference of the probation officer who conducted the preliminary inquiry, a representative from a family resource center or other community-based services program, if involved with the family, the petitioner, a representative from the child's school, the child's parent, legal guardian or custodian and his attorney, the child and his attorney, a representative of the department of children and families, if involved with the family, and any other person who may be helpful in determining the most effective assistance available to be offered to the child and family. The probation officer shall present written recommendations and other persons at the conference may present written recommendations to the court to advise the court on appropriate treatment and services for the child and family, appropriate placement for the child, and appropriate conditions and limitations of such placement.

At the conference and subsequent hearing on disposition, the child and his attorney shall be present and the parents, legal guardian or custodian and the petitioner

shall be given an opportunity to be heard. The court may receive evidence as to the best disposition from all persons who participate in the conference and any other person who may be helpful in determining an appropriate disposition.

(b) During the dispositional hearing, the court shall consider evidence admitted, the report of the probation officer, and the physical and emotional welfare of the child and may make any of the following orders:

(1) permit the child to remain with his parents, legal guardian or custodian, subject to any conditions and limitations the court may prescribe including, but not limited to: provision for medical, psychological, psychiatric, educational, occupational and social services; provision for supervision by a court clinic or counseling or guidance by any public or private organization; and provision for any other services deemed appropriate by the court;

(2) place the child in the care of any of the following individuals, subject to such conditions and limitations as the court may prescribe including, but not limited to, services described in clause (1):

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

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

(3) place the child in the custody of the department of children and families, subject to sections 32 and 33 and such conditions and limitations as the court may recommend. If the court chooses to place the child in the custody of the department, the court shall make the written certification and determinations required by section 29C. If the court has placed a child in the custody of the department, then the department:

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

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

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

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

(4) The court may recommend that a state agency provide particular services to the family and child including, but not limited to, those services described in clause (1) of subsection (b). If the agency determines that alternative services should be provided to the child and the family, or is otherwise not able to comply with the court's recommendations, the agency shall provide to the court and the office of the child advocate a written statement of the reasons why it is unable to provide those services. The executive office of health and human services shall, not later than December 31, submit an annual report to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities stating the number of cases for which agencies within the executive office provided alternative services, rather than those recommended by the court, summarizing the reasons for not providing the services recommended by the court, and including a brief description of the services that were provided under this section. Nothing in this section shall be construed to entitle a child to services for which the child would be otherwise ineligible

(5) If the family or child are directed by the court to participate in treatment or services which are eligible for coverage by an insurance plan or other third-party payer, payment for such services shall not be denied if the treatment or services otherwise meet the criteria for coverage.

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

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

Section 39X. (a) Any order of disposition under section 39V shall continue in force for not more than 120 days. The court which entered the order may, after a hearing, extend such order for a period not to exceed 90 days, not more than 3 times, if such court finds that the purposes of the order have not been accomplished and that each such extension would be reasonably likely to further those purposes. The child and

parents, legal guardian or custodian shall have the opportunity to present evidence and rebut evidence presented at any extension hearing.

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

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

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

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

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

(ii) forthwith and with all reasonable speed take the child directly, and without first being taken to the police station house, to a program designated by the secretary of health and human services to provide community-based services or family resource services, if one is available in the geographic region which constitutes the district of the juvenile court department within which the child was taken into custodial protection or in which the child resides; or

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

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



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

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

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

SECTION 6. (a) There shall be established within the executive office of health and human services, but not subject to the control of said executive office, a Families and Children Requiring Assistance Advisory Board, hereinafter called the advisory board. The advisory board shall consist of the following members: 4 representatives of the executive office of health and human services appointed by the secretary, 1 of whom shall be a representative of the department of children and families, 1 of whom shall be a representative of the department of youth services, 1 of whom shall be a representative of the department of mental health, 1 of whom shall be a representative of the office of Medicaid; the child advocate or a designee thereof; a representative of the department of elementary and secondary education appointed by the commissioner; a juvenile court judge appointed by the chief justice of the juvenile court; a probation officer, assigned to a juvenile court, appointed by the commissioner of probation; 5 members appointed by the governor, 1 of whom shall be a district attorney, 1 of whom shall be a designee of the committee for public counsel services, 1 of whom shall be an independent education advocate, 1 of whom shall be a private provider of services to families with children who have behavioral health needs, 1 who is a parent and is not an employee of the commonwealth; 1 member appointed by the speaker of the house and 1 member appointed by the senate president.

The secretary of health and human services and the chief justice of the juvenile court shall each designate 1 board member to serve as co-chairs. All appointments to the advisory board shall be made not later than 30 days after the effective date of this section. Any vacancy shall be filled by the appointing authority. The chairpersons of the board shall schedule the first meeting of the advisory board, which shall be held not later than 60 days after the effective date of this section.

(b) The advisory board shall: (1) monitor the progress being made by the executive office of health and human services in developing a community-based services network and family resource centers under section 16T of chapter 6A of the General Laws; (2) monitor the progress being made by the probation department in developing a system to collect data regarding requests for assistance made and how such requests for assistance are resolved as required by section 39R of chapter 119 of the General Laws; (3) monitor the effectiveness of the juvenile court in providing assistance to children and families who file, or are the subjects of, requests for assistance under sections 39K to 39Y, inclusive, of said chapter 119; (4) provide advice with respect to such implementation upon the request of the chief justice of the juvenile court, the commissioner of probation, the secretary of health and human services or the general court and make recommendations to the governor annually relative to the adequacy of resources and support to continue with the activities identified in said section 16T of said chapter 6A and said sections 39K to 39Y, inclusive, of chapter 119.

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

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

SECTION 7. (a) Within 24 months of the effective date of this act, the secretary of health and human services shall, with the advice of the advisory board established in section 6, design a model for the delivery of community-based services for children requiring assistance which shall include family resource centers and shall

augment, be compatible with and integrated into existing community-based service systems for children, as required by section 1. Such model shall include a system to gather data including: demographic information, insurance status and benefit coverage of clients served, income documentation as needed to apply a sliding fee scale for payment or waiver of payment for services, and such other information deemed necessary to assist the program and the secretary in providing services and evaluating the effectiveness of family resource centers and community-based services programs, as required by section 1. The model shall allow a child or family to seek assistance from a family resource center or community-based services program directly and without referral. The model shall include procedures for referral to other services whenever the staff of the family resource center or program offering community-based services determines that a family seeking or referred for services for a child has significant and complex medical needs which cannot be met by the agency or if the child's behavior presents a significant risk of harm that cannot be safely managed in such center or program.

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

(c) Subject to appropriation, within 36 months of the effective date of this act, the secretary shall establish a pilot family resource center or a community-based service system program in 1 or more geographic regions of the commonwealth. The secretary, with the advice and assistance of the advisory board, shall analyze the effectiveness of these pilot sites in order to make necessary changes to the program design in establishing a network of family resource centers and community-based service programs throughout the commonwealth.

(d) Subject to appropriation, within 48 months of the effective date of this act, the secretary shall establish a network of family resource centers and child and family service programs throughout the commonwealth to provide community-based services to families with children requiring assistance, as required by section 16T of chapter 6A of the General Laws.

(e) Within 90 days of the effective date of this act the secretary shall provide a mechanism for the clerk of the juvenile court to obtain information and make referrals to family resource centers or community-based services programs or other entities.

SECTION 8. Within 12 months of the effective date of this act, and annually thereafter, the commissioner of probation shall submit a report to the child advocate, the Families and Children Engaged in Services advisory board, the house and senate committees on ways and means, joint committee on children, families and persons with

disabilities and the joint committee on the judiciary. The report shall include, for each juvenile court district: the number of children and families receiving assistance from probation officers; the racial and ethnic identity of the children and families, as identified by the child and family members; an analysis of the services provided and an identification of gaps in services available; the status or resolution of each request for assistance filed under section 39M of chapter 119 of the General Laws; the number of children who are the subject of a request for assistance and also charged with a delinquency matter in the previous year; and the custody status of the child that is subject to the request for assistance, specifying if the child is in the custody of the department of children and families or committed to the care of the department of youth services. The report shall exclude information that identifies or allows others to identify any child or family involved in the juvenile justice system.

SECTION 9. Subject to appropriation, the department of elementary and secondary education shall develop a pilot truancy prevention program using a restorative justice format in at least 1 urban high school in the commonwealth. The program shall include the use of healing circles which allow family, neighborhood and school community members to be present; a reparative board, comprised of peers and led by an adult; family group counseling, and mediation or alternative dispute resolution with the child, family members and school representatives. The program shall be designed to address the underlying causes both in and out of school which led to truancy. The program shall be consistent with, and organized according to, the schools and behavioral health framework developed under section 19 of chapter 321 of the acts of 2008. The department shall evaluate the effectiveness of the program in preventing truancy and enhancing the child's academic performance and report the results of that evaluation to the board of elementary and secondary education, the house and senate committees on ways and means, joint committee on education, the department of elementary and secondary education and the child advocate.

SECTION 10. Subject to appropriation, the secretary of health and human services shall create a pilot program to address the unique needs of girls who run away from their parents and legal guardians.

SECTION 11. Nothing in this act shall diminish or interfere with the responsibility of the commonwealth or municipalities to provide educational services as required by state and federal law.

SECTION 12. Sections 1 and 3 to 6, inclusive, shall take effect 6 months after the effective date of this act.