

# **SENATE . . . . . No. 02410**

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## The Commonwealth of Massachusetts

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SENATE, August 01, 2012

The committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill regarding families and children engaged in services (Senate, No. 1963) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4330), reports, a Bill entitled “An Act regarding families and children engaged in services” (Senate, No. 2410).

For the committee,

KAREN E. SPILKA.

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve  
\_\_\_\_\_

An Act regarding families and children engaged in services.

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

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

3           Section 16U. (a) As used in this section, the following words shall have the following  
4 meanings:-

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

6           “Community-based services”, services, including coordination of services, designed to  
7 assist families requiring assistance so that, if appropriate, children of the family may continue to  
8 reside with their family and attend their community school while enjoying a strengthened  
9 relationship with their family.

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

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

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

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

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

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

20 (3) promote efficiency by including in the network of community-based  
21 services and family resource centers access to the following services: (i) organizations that are  
22 part of the comprehensive community-based behavioral health delivery system coordinated by  
23 the secretary under section 16S; (ii) organizations that provide services or have experience in  
24 coordinating access to community-based services such as local schools; (iii) other local public  
25 agencies and private organizations; and (iv) local medical, behavioral or mental health care  
26 providers;

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

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

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

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

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

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

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

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

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

79 (f) Except as otherwise provided, a school administrator shall refer a student to a family  
80 resource center or a community-based services program, if such programs have been established  
81 in the geographic region where the student resides, at the same time that the administrator  
82 notifies the student and the parent, legal guardian or custodian of the student that the student is to  
83 be expelled for failure to comply with the lawful and reasonable rules of the school. After  
84 providing the process that is due to the student, including an expulsion hearing if requested under  
85 sections 37H and 37H 1/2 of chapter 71, the school administrator shall consider the outcome of  
86 the community-based services if the student provides such outcome information to the school.  
87 After an expulsion is imposed, the student may continue to provide information relative to the  
88 outcome of any community-based services rendered, and the school administrator shall consider  
89 the outcome of any community-based services rendered any time that is provided.  
90 Notwithstanding the outcome of any community-based services, school districts shall make  
91 available to expelled students educational services designed to lead to re-entry to a regular  
92 education program or to a high school diploma.

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

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

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

103 Section 1O. The department of elementary and secondary education shall adopt  
104 regulations establishing a truancy prevention program certification process, consistent with the  
105 behavioral health and public schools framework developed pursuant to section 19 of chapter 321  
106 of the acts of 2008, and shall require that the truancy prevention program evaluate the level of  
107 out-of-school support for students and families and address conditions that make students more  
108 likely to become truant including, but not limited to, previously unidentified or inadequately  
109 addressed special needs, bullying and harassment. Any truancy prevention program established  
110 under this section by a school district shall meet the requirements for certification adopted by the  
111 department.

112 SECTION 3. Section 21 of chapter 119 of the General Laws is hereby amended by  
113 striking out the definition of “Child in need of services”, as amended by section 7 of chapter 178  
114 of the acts of 2011, and inserting in place thereof the following definition:-

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

121 SECTION 4. Said section 21 of said chapter 119, as most recently amended by section 8  
122 of said chapter 178, is hereby further amended by inserting after the definition of “Department”  
123 the following 2 definitions:-

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

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

129 SECTION 5. Section 39E of said chapter 119, as appearing in the 2010 Official Edition,  
130 is hereby amended by striking out, in lines 2 and 3, the words “petitions seeking a determination  
131 that a child is in need of services” and inserting in place thereof the following words:- requests  
132 for assistance stating that there is a child requiring assistance or a family requiring assistance.

133 SECTION 6. Said section 39E of said chapter 119, as so appearing, is hereby further  
134 amended by inserting after the word “proceedings”, in line 6, the following words:- and any  
135 record of these proceedings, including the filing of an application for assistance and creation of a  
136 docket, shall not be entered in the criminal offender record information system. Notwithstanding  
137 any general or special law to the contrary, no record pertaining to the child involved in the  
138 proceedings shall be maintained or remain active after the application for assistance is dismissed.  
139 The identity and record of any child for which an application for assistance is filed shall not be  
140 submitted to the department of criminal justice information services, criminal offender record  
141 information system, court activity record index or any other criminal record information system.  
142 Proceedings under sections 39E to 39I, inclusive, shall be confidential and not open to the public.



143 SECTION 7. Said section 39E of said chapter 119, as so appearing, is hereby further  
144 amended by striking out the words “or legal guardian of a child having custody of such child, or  
145 a police officer may apply for a petition in one of said courts alleging that said child persistently  
146 runs away from the home of said parent or guardian or persistently” and inserting in place  
147 thereof the following words:-, legal guardian, or custodian of a child having custody of such  
148 child, may initiate an application for assistance in one of said courts stating that said child  
149 repeatedly runs away from the home of said parent or guardian or repeatedly.

150 SECTION 8. Said section 39E of said chapter 119, as so appearing, is hereby further  
151 amended by striking out the third paragraph and inserting in place thereof the following 2  
152 paragraphs:-

153 A school district may initiate an application for assistance in said court stating that said  
154 child is not excused from attendance in accordance with the lawful and reasonable regulations of  
155 such child’s school, has willfully failed to attend school for more than 8 school days in a quarter  
156 or repeatedly fails to obey the lawful and reasonable regulations of the child's school. The  
157 application for assistance shall also state whether or not the child and the child's family have  
158 participated in the truancy prevention program, if one is available, and a statement of the specific  
159 steps taken under the truancy prevention program to prevent the child’s truancy; and if the  
160 application for assistance states that a child has repeatedly failed to obey the lawful and  
161 reasonable regulations of the school, a statement of the specific steps taken by the school to  
162 improve the child’s conduct.

163 When an application for assistance is presented to the clerk for filing, the clerk shall  
164 inform the petitioner that the petitioner may delay filing the request and choose to have the child

165 and the child's family referred to a family resource center, community-based services program or  
166 other entity designated by the secretary of health and human services to provide community-  
167 based services in the juvenile court district where the child resides and return to court at a later  
168 time to file an application for assistance, if needed. The clerk shall prepare, publish and  
169 disseminate to each petitioner educational material relative to available family resource centers,  
170 community-based services programs and other entities designated by the secretary of health and  
171 human services. If the petitioner is a parent, legal guardian or custodian the clerk shall provide  
172 to the petitioner informational materials, prepared by the court that explain the court process and  
173 shall include the types of orders that the court may issue and the possibility of changes in the  
174 custody of the child and may include an explanation of the services available through the court  
175 process, including language translation services and the manner in which those services are  
176 delivered.

177 SECTION 9. Said section 39E of said chapter 119, as so appearing, is hereby further  
178 amended by striking out the fourth paragraph and inserting in place thereof the following 2  
179 paragraphs:-

180 Whenever an application for assistance is initiated, the clerk shall set a date for a hearing  
181 as soon as possible, but not later than 15 days after the request is presented to the clerk for filing,  
182 to determine whether assistance is needed, shall notify the child of such hearing and shall request  
183 the chief probation officer or a designee to conduct an immediate inquiry to determine whether  
184 in the officer's opinion the best interest of the child require that assistance be given. The court  
185 shall hold a hearing in which it shall receive the recommendation of the probation officer and  
186 shall either (i) decline to accept the application for assistance because there is no probable cause  
187 to believe that the child and family are in need of assistance; (ii) decline to accept the

188 application for assistance because it finds that the interests of the child would best be served by  
189 informal assistance, in which case the court shall, with the consent of the child and the child's  
190 parents or guardian, refer the child to a probation officer for assistance ; or (iii) accept the  
191 application for assistance and schedule a fact-finding hearing. If the child is brought in on  
192 custodial protection, the court shall accept an application for assistance unless one has already  
193 been filed, and the court shall immediately request the probation officer promptly to make like  
194 inquiry and thereafter report to the court the probation officer's recommendation as to whether  
195 the interests of the child can best be served by informal assistance without a fact-finding hearing.  
196 Upon receiving such recommendation, the court may hold a hearing and shall decide whether to  
197 proceed with a fact-finding hearing or to refer the child to the care of a probation officer for  
198 assistance.

199           When an application for assistance is dismissed under this section, the court shall enter an  
200 order directing expungement of any records of the request and related proceedings maintained by  
201 the clerk, the court, the department of criminal justice information services, the court activity  
202 record index and the probation department that directly pertain to the application for assistance.

203           SECTION 10. Said section 39E of said chapter 119, as so appearing, is hereby further  
204 amended by striking out the fifth and sixth paragraph and inserting in place thereof the following  
205 3 paragraphs:-

206           Whenever a child is referred to a probation officer for assistance, such officer may: refer  
207 the child to an appropriate public or private organization or person for psychiatric, psychological,  
208 educational, occupational, medical, dental or social services; and may conduct conferences with  
209 the child and the child's family to effect adjustments or agreements which are calculated to

210 resolve the situation which formed the basis of the application for assistance and which will  
211 eliminate the need for a fact finding hearing. During the pendency of such referrals or  
212 conferences, neither the child nor the child's parents may be compelled to appear at any  
213 conferences, produce any papers or visit any place. However, if the child or the child's parents  
214 fail to participate in good faith in the referrals or conferences arranged by the probation officer,  
215 the probation officer shall so certify in writing, and the clerk shall accept the application for  
216 assistance if one has not already been accepted and shall set a date for a fact finding hearing. The  
217 judge who conducted the hearing on the acceptance of the application for assistance shall not  
218 preside at any subsequent hearing. Conferences and referrals arranged under this section may  
219 extend for a period not to exceed 90 days from the date that the application for assistance was  
220 initially filed, unless the parent and child voluntarily agree in writing to a continuation of such  
221 conferences or referrals for an additional period not to exceed 90 days from the expiration of the  
222 original period. Upon the expiration of the initial 90 day period, or of such additional 90 day  
223 period, the application for assistance, if any, shall be dismissed and the child and his parents  
224 discharged from any further obligation to participate in such conferences and referrals, or an  
225 application for assistance shall, if not already accepted, be accepted and a date set for a fact-  
226 finding hearing. No statements made by a child or by any other person during the period of  
227 inquiries, conferences or referrals may be used against the child at any subsequent hearing to  
228 determine that the child requires assistance, but such statements may be received by the court  
229 after the fact finding hearing for the purpose of disposition.

230           The commissioner of probation shall establish a system to collect data on all requests for  
231 assistance made and how they are resolved under sections 39E to 39I, inclusive. Said system  
232 shall maintain the privacy of clients served, assist the court in addressing the needs of the

233 population to be served and collect information related to: the racial and ethnic identity of the  
234 child; the insurance status and coverage of clients served; the length of time a child is receiving  
235 assistance from a probation officer, including the time prior to and subsequent to the filing of an  
236 application for assistance; the identity of any public or private organization to whom a probation  
237 officer has referred a child or family for services; and any other information that may assist the  
238 commissioner and the court in evaluating the availability and effectiveness of services for  
239 children who are the subjects of requests for assistance under this section. The probation officer  
240 shall gather information concerning each child and family referred to the officer including, but  
241 not limited to, insurance status and coverage and other information that may assist the  
242 commissioner of probation and the court in evaluating the availability and effectiveness of  
243 services for children who are the subjects of requests for assistance under this section.

244           Upon the filing of an application for assistance under this section, the court may issue a  
245 summons, to which a copy of the application for assistance shall be attached, requiring the child  
246 named in such application to appear before said court at the time set forth in the summons. If  
247 such child fails to obey the summons, said court may issue a warrant reciting the substance of the  
248 petition and requiring the officer to whom it is directed forthwith to take and bring such child  
249 before said court. Notice of the hearing shall be given to the department of children and families  
250 and the department of youth services.

251           SECTION 11. Said section 39E of said chapter 119, as so appearing, is hereby further  
252 amended by striking out, in line 92, the word “services” and inserting in place thereof the  
253 following word:- assistance.

254 SECTION 12. Said section 39E of said chapter 119, as so appearing, is hereby further  
255 amended by striking out the ninth paragraph.

256 SECTION 13 Section 39F of said chapter 119, as so appearing, is hereby amended by  
257 striking out the first sentence and inserting in place thereof the following sentence:- When an  
258 application for assistance stating the a child and family are in need of assistance is initiated the  
259 child shall be informed that he has a right to counsel at all hearings, and if said child is not able  
260 to retain counsel, the court shall appoint counsel for said child.

261 SECTION 14. Said section 39F of said chapter 119, as so appearing, is hereby further  
262 amended by inserting after the first sentence the following 3 sentences:- The clerk shall cause a  
263 copy of the application for assistance and notice of the time and place of the any scheduled  
264 hearing or proceeding to be delivered to counsel at the time of appointment. When the  
265 application for assistance is filed, each parent, legal guardian or custodian of the child shall be  
266 informed of the right to be heard in any proceeding under sections 39E to 39I, inclusive,  
267 involving the child and that a parent or legal guardian has the right to counsel at any hearing or  
268 proceeding regarding custody of such child. If said parent or legal guardian is indigent, the court  
269 shall appoint counsel for said parent or legal guardian.

270 SECTION 15. Said section 39F of said chapter 119, as so appearing, is hereby further  
271 amended by striking out, in line 6 and 7, the words “alleged to be in need of services” and  
272 inserting in place thereof the following words:- stated to require assistance.

273 SECTION 16. Section 39G of said chapter 119, as so appearing, is hereby further  
274 amended by striking out the first paragraph and inserting in place thereof the following 5  
275 paragraphs:-

276 At any hearing to determine whether a child and family require assistance, said child and  
277 the child's attorney shall be present and the parent, legal guardian or custodian shall be given an  
278 opportunity to be heard. The petitioner and any party may file a motion to dismiss the request for  
279 assistance at any time prior to a hearing to determine the disposition of a request for assistance.  
280 The judge, upon a filing of a motion to dismiss, may order that the request for assistance be  
281 dismissed upon a showing that the dismissal is in the best interests of the child or if all parties  
282 agree to the dismissal. A probation officer may at any time recommend to the court that the  
283 request for assistance be dismissed upon a showing that dismissal is in the best interests of the  
284 child.

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

296 At the conference and subsequent hearing on disposition, the child and the child's  
297 attorney shall be present and the parents, legal guardian or custodian, and the child and petitioner  
298 shall be given an opportunity to be heard. The court may receive evidence as to the best

299 disposition from all persons who participate in the conference and any other person who may be  
300 helpful in determining an appropriate disposition.

301 If the court finds the statements in the application for assistance have been proved at the  
302 hearing beyond a reasonable doubt, it may determine the child to be in need of assistance. Upon  
303 making such determination, the court, taking into consideration the physical and emotional  
304 welfare of the child, may make any of the following orders of disposition:

305 SECTION 17. Clause (a) of the first paragraph of said section 39G of said chapter 119, as  
306 so appearing, is hereby amended by inserting after the word “parents”, in line 12, the following  
307 words:- , legal guardian or custodian.

308 SECTION 18. Said section 39G of said chapter 119, as so appearing, is hereby further  
309 amended by striking out, in line 25, the words “commit the child to” and inserting in place  
310 thereof the following words:- place the child in the custody of.

311 SECTION 19. Said section 39G of said chapter 119, as so appearing, is hereby further  
312 amended by striking out second paragraph and inserting in place thereof the following 2  
313 paragraphs:-

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

317 A child who is the subject of an application for assistance may not be confined in  
318 shackles or similar restraints or in a court lockup facility in connection with any proceedings  
319 under sections 39E to 39I, inclusive. A child who is the subject of an application for assistance



320 shall not be placed in a locked facility or any facility designated or operated for juveniles who  
321 are alleged to be delinquent or who have been adjudicated delinquent. Such child may, however,  
322 be placed in a facility which operates as a group home to provide therapeutic care for juveniles,  
323 regardless of whether juveniles adjudicated delinquent are also provided care in such facility.”

324 SECTION 20. Said section 39G of said chapter 119, as so appearing, is hereby further  
325 amended by striking out, in line 47, the words “six months” and inserting in place thereof the  
326 following words:- 120 days.

327 SECTION 21. Said section 39G of said chapter 119, as so appearing, is hereby further  
328 amended by inserting after the word “for”, in line 48, the following figure:- up to 3.

329 SECTION 22.. Said section 39G of said chapter 119, as so appearing, is hereby further  
330 amended by striking out, in line 49, the words “six months” and inserting in place thereof the  
331 following words:- 90 days.

332 SECTION 23. Said section 39G of said chapter 119, as so appearing, is hereby further  
333 amended by striking out the fourth paragraph and inserting in place thereof the following  
334 paragraph:-

335 No order shall continue in effect after the eighteenth birthday of a child named in an  
336 application for assistance authorized to be filed by a parent, a legal guardian or custodian or a  
337 police officer or after the sixteenth birthday of a child named in a petition authorized to be filed  
338 by a school district.

339 SECTION 24. Section 39H of said chapter 119, as so appearing, is hereby amended by  
340 striking out, in lines 1 to 3, inclusive, the words “arrested for committing the behavior described

341 in the definition of child in need of services in section twenty-one” and inserting in place thereof  
342 the following words:- taken into custodial protection for engaging in the behavior described in  
343 the definition of “Child requiring assistance” in section 21.

344 SECTION 25. Said section 39H of said chapter 119, as so appearing, is hereby further  
345 amended by striking out, in line 4, the words “arresting law enforcement officer” and inserting in  
346 place thereof the following words:- law enforcement officer initiating such custodial protection.

347 SECTION 26. Said section 39H of said chapter 119, as so appearing, is hereby further  
348 amended by striking out, in lines 7 to 13 inclusive, the words “Whenever such child is arrested  
349 and the court with jurisdiction over the case is not in session, the law enforcement officer in  
350 charge of the police station or town lockup to which the child has been taken, or his designee,  
351 shall immediately notify (1) the probation officer of the division of the juvenile court department  
352 within whose district such child was arrested or resides, or such other probation officer who may  
353 have knowledge of the child and (2)” and inserting in place thereof the following words:- After  
354 a law enforcement officer has taken a child into custodial protection, the officer shall  
355 immediately notify the parent, other person legally responsible for the child’s care or the person  
356 with whom the child is domiciled, that such child is under the custodial protection of the officer  
357 and.

358 SECTION 27. Said section 39H of said chapter 119, as so appearing, is hereby further  
359 amended by inserting after the word “home”, in line 24, the following words:- upon the written  
360 promise, without surety, of the person to whose custody the child is released that such parent,  
361 guardian, person or custodian will bring the child to the court on the next court date.

362 SECTION 28. The third paragraph of said section 39H of said chapter 119, as so  
363 appearing, is hereby further amended by striking out clause (ii) and inserting in place thereof the  
364 following :-

365 (ii) forthwith and with all reasonable speed take the child directly and without first being  
366 taken to the police station house, to a temporary shelter facility licensed or approved by the  
367 department of early education and care, a shelter home approved by a temporary shelter facility  
368 licensed or approved by said department of early education and care or a family foster care home  
369 approved by a placement agency licensed or approved by said department of early education and  
370 care; or

371 (iii) take the child directly to the juvenile court in which the act providing the reason to  
372 take the child into custodial protection occurred if the officer affirms on the record that the  
373 officer attempted to exercise the options identified in clauses (i) and (ii), was unable to exercise  
374 these options and the reasons for such inability.

375 A child in custodial protection may not be confined in shackles or similar restraints or in  
376 a court lockup facility in connection with any proceedings under sections 39E to 39I, inclusive.  
377 A child who is the subject of an application for assistance shall not be placed in a locked facility  
378 or a facility designated or operated for juveniles who are alleged to be delinquent or who have  
379 been adjudicated delinquent. Such child may, however, be placed in a facility which operates as  
380 a group home to provide therapeutic care for juveniles, regardless of whether juveniles  
381 adjudicated delinquent are also provided care in such facility.

382 SECTION 29. Said section 39H of said chapter 119, as so appearing, is hereby further  
383 amended by striking out, in line 40, the word “arrested” and inserting in place thereof the  
384 following words:- taken into custodial protection.

385 SECTION 30. Said section 39H of said chapter 119, as so appearing, is hereby further  
386 amended by striking out the last paragraph and inserting in place thereof the following  
387 paragraph:-

388 If the court finds that a child stated to require assistance by reason of repeatedly refusing  
389 to obey the lawful and reasonable commands of such child's parents, legal guardian or custodian  
390 or is likely not to appear at the fact finding or disposition hearing, the court may order the child  
391 to be released upon such terms and conditions as it determines to be reasonable or, if the  
392 standards below are met, may place the child in the temporary custody of the department of  
393 children and families. The court shall not order the child to be placed in the custody of the  
394 department of youth services. Prior to the court granting temporary custody to the department of  
395 children and families, the court shall make a written certification and determination that it is  
396 contrary to the best interests of the child for the child to be in the child’s home or current  
397 placement and that the department of children and families has made reasonable efforts to  
398 prevent removal of the child from the child’s home or the existing circumstances indicate that  
399 there is an immediate risk of harm or neglect which precludes the provision of preventative  
400 services as an alternative to removal. An order placing a child with the department under this  
401 section shall be valid for not more than 15 days upon which the child and the child's parents,  
402 legal guardians or custodians, represented by counsel, shall be brought again before the court for  
403 a hearing on whether such order should be continued for another 15 day period based on the  
404 preponderance of the evidence. If the court decides to continue said order, it shall note in writing

405 the detailed reasons for its decision; provided, however that no child shall be placed with the  
406 department under this section for more than 45 days.

407 SECTION 31.Said chapter 119 is hereby further amended by striking out section 39I, as  
408 so appearing, and inserting in place thereof the following section:-

409 Section 39I. A child, parent, legal guardian or custodian may appeal from any order or  
410 determination made under sections 39E to 39H, inclusive. Pending the appeal, the court shall  
411 retain jurisdiction and may enter any order under this chapter to meet the needs of the child.  
412 Notwithstanding any general or special law to the contrary, the appeal shall be to the appeals  
413 court under section 118 of chapter 231 and shall proceed under the Massachusetts Rules of  
414 Appellate Procedure that govern child welfare cases.

415 SECTION 32. Section 39J of said chapter 119 is hereby repealed.

416 SECTION 33. Section 118 of chapter 231 of the General Laws, as appearing in the 2010  
417 Official Edition, is hereby amended by inserting after the word “department”, in line 3, the  
418 following words:- , the juvenile court department.

419 SECTION 34. (a) There shall be established within the executive office of health and  
420 human services, but not subject to the control of said executive office, a Families and Children  
421 Requiring Assistance Advisory Board, in this act called the advisory board. The advisory board  
422 shall consist of the following members: the commissioner of the department of children and  
423 families, or a designee; a department of children and families adolescent social worker approved  
424 by the regional director of the area pilot program; the commissioner of the department of youth  
425 services, or a designee; the commissioner of the department of mental health and a department of  
426 mental health case manager approved by the regional director of the area pilot program; the

427 commissioner public health; the director of the office of Medicaid, or a designee; the child  
428 advocate, or a designee; the commissioner of and secondary education, or a designee; a juvenile  
429 court judge appointed by the chief justice of the juvenile court; a probation officer, assigned to a  
430 juvenile court, appointed by the commissioner of probation; the chair of the board of the  
431 committee for public counsel services, or a designee; 1 member appointed by the speaker of the  
432 house of representatives; 1 member appointed by the senate president; 1 member appointed by  
433 the minority leader of the house, 1 member appointed by the minority leader of the senate and 5  
434 members appointed by the governor, 1 of whom shall be a district attorney, 1 of whom shall be  
435 an independent education advocate, 1 of whom shall be a private provider of services to families  
436 with children who have behavioral health needs, 1 who is a parent and is not an employee of the  
437 commonwealth, and 1 of whom shall be a member of a municipal police department. The  
438 governor and the chief justice of the juvenile court shall each designate 1 board member to serve  
439 as co-chairs. All appointments to the advisory board shall be made not later than 30 days after  
440 the effective date of this section. Any vacancy shall be filled by the appointing authority. The  
441 chairpersons of the board shall schedule the first meeting of the advisory board, which shall be  
442 held not later than 60 days after the effective date of this section.

443 (b) The advisory board shall perform the following tasks:

444 (1) advise the secretary of health and human services in designing and  
445 implementing a community-based service network and family resource center pilot program  
446 established in section 35, including methods to collect the following data on clients served:  
447 demographic information, insurance status and benefit coverage of clients served, income  
448 documentation as needed to apply a sliding fee scale for payment or waiver of payment for  
449 services and such other information deemed necessary to assist the program and the secretary in

450 providing services and evaluating the effectiveness of family resource centers and community-  
451 based services programs;

452 (2) monitor the progress being made by the executive office of health and human  
453 services in continuing the developing of a community-based services network and family  
454 resource centers under section 16U of chapter 6A of the General Laws;

455 (3) keep informed concerning the progress being made by the probation  
456 department in developing a system to collect data regarding applications for assistance made and  
457 how such applications for assistance are resolved as required by section 39E of chapter 119 of  
458 the General Laws;

459 (4) provide a mechanism for the clerk of the juvenile court to obtain information  
460 and make referrals to a family resource center or community-based services program established  
461 by the pilot program;

462 (5) provide advice and make recommendations with respect to the adequacy of  
463 resources and support to expand the pilot program;

464 (6) coordinate with the department of probation to obtain the following  
465 information from the juvenile court districts in which the pilot program is established: the  
466 number of children and families receiving applications for assistance from probation officers; the  
467 racial and ethnic identity of the children and families, as identified by the child and family  
468 members; an analysis of the services provided and an identification of gaps in services available;  
469 the number of children who may be eligible to request assistance under the pilot program that  
470 have been charged with a delinquency matter in the previous year; and the custody status of a

471 child that is subject to the request for assistance, specifying if the child is in the custody of the  
472 department of children and families or committed to the care of the department of youth services.

473           (7) keep informed concerning the effectiveness of the juvenile court in providing  
474 assistance to children and families who file, or are the subjects of, applications for assistance  
475 under sections 39E to 39I, inclusive, of said chapter 119;

476           (c) The secretary of health and human services, the commissioner of elementary and  
477 secondary education, the commissioner of probation and the chief justice of the juvenile court  
478 shall provide to the advisory board periodic data reports which include information relative to  
479 families and children seeking, or referred for, assistance and the services provided to them.

480 Within 12 months of the effective date of this act, the advisory board shall submit  
481 recommendations to the governor and the house and senate committees on ways and means for  
482 funding and implementation activities based on the review of such data submitted.

483           (d) The advisory board shall, on or before January 30 of each year, report in writing to  
484 the governor, the child advocate, the house and senate committees on ways and means, the joint  
485 committee on children and families and persons with disabilities and on the joint committee on  
486 the judiciary on the progress made relative to the implementation of the pilot program under  
487 section 35 and on the progress made relative to the implementation of section 16U of chapter 6A  
488 of the General Laws . The report shall include the design plans for the pilot program and any  
489 progress made toward its implementation, including a recommended budget for the activities to  
490 be undertaken and any necessary legislative changes. Each annual report thereafter shall report  
491 its expectation of progress toward the goals of said section 16U of said chapter 6A which will be  
492 achieved in the following year. Once the pilot program has been established, the report shall



493 include a detailed account of the program's successes and obstacles as well as any  
494 recommendations to alter the program design or establish new pilot centers.

495           SECTION 35. (a) Notwithstanding chapter 119 of the General Laws or any other general  
496 or special law or rule or regulation to the contrary, within 1 year after the effective date of this  
497 act, the secretary of health and human services shall, with the advice of the advisory board  
498 established in section 34, design a pilot program for the delivery of community-based services  
499 for children requiring assistance which shall include a family resource center and shall be  
500 compatible with existing community-based service systems for children. The pilot program shall  
501 allow a child or family to seek assistance from a family resource center or community-based  
502 services program directly and without referral. The program shall include procedures for referral  
503 to other services whenever the staff of the family resource center or program offering  
504 community-based services determines that a family seeking or referred for services for a child  
505 has significant and complex medical needs which cannot be met by the agency or if the child's  
506 behavior presents a significant risk of harm that cannot be safely managed in such center or  
507 program.

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

511           (c) Subject to appropriation, within 2 years after the effective date of this act, the  
512 secretary of health and human services shall implement the pilot program and establish a pilot  
513 family resource center or a community-based service system program each county of the  
514 commonwealth. The secretary of health and human services, with the advice and assistance of

515 the advisory board, shall analyze the effectiveness of the pilot sites in order to make necessary  
516 changes to the program design in establishing a network of family resource centers and  
517 community-based service programs throughout the commonwealth.

518           SECTION 36. The secretary of health and human services shall provide a mechanism for  
519 the clerk of the juvenile court to obtain information and make referrals to family resource centers  
520 or community-based services programs, if available, and any other entity available to provide  
521 services to children or families.

522           SECTION 37. Within 12 months of the effective date of this act, and annually thereafter,  
523 the commissioner of probation shall submit a report to the child advocate, the Families and  
524 Children Requiring Assistance Advisory Board, the house and senate committees on ways and  
525 means, joint committee on children, families and persons with disabilities and the joint  
526 committee on the judiciary. The report shall include, for each juvenile court district: the number  
527 of children and families receiving assistance from probation officers; the racial and ethnic  
528 identity of the children and families, as identified by the child and family members; an analysis  
529 of the services provided and an identification of gaps in services available; the status or  
530 resolution of each request for assistance filed under section 39M of chapter 119 of the General  
531 Laws; the number of children who are the subject of a request for assistance and also charged  
532 with a delinquency matter in the previous year; and the custody status of the child that is subject  
533 to the request for assistance, specifying if the child is in the custody of the department of  
534 children and families or committed to the care of the department of youth services. The report  
535 shall exclude information that identifies or allows others to identify any child or family involved  
536 in the juvenile justice system.

537 SECTION 38. Subject to appropriation, the department of elementary and secondary  
538 education shall develop a pilot truancy prevention program using a restorative justice format in at  
539 least 1 urban high school in the commonwealth. The program shall include the use of healing  
540 circles which allow family, neighborhood and school community members to be present; a  
541 reparative board, comprised of peers and led by an adult; family group counseling and mediation  
542 or alternative dispute resolution with the child, family members and school representatives. The  
543 program shall be designed to address the underlying causes both in and out of school which led  
544 to truancy. The program shall be consistent with, and organized according to, the schools and  
545 behavioral health framework developed under section 19 of chapter 321 of the acts of 2008. The  
546 department shall evaluate the effectiveness of the program in preventing truancy and enhancing  
547 the child's academic performance and report the results of that evaluation to the board of  
548 elementary and secondary education, the house and senate committees on ways and means, the  
549 joint committee on education, the department of elementary and secondary education and the  
550 child advocate.

551 SECTION 39. Subject to appropriation, the secretary of health and human services shall  
552 create a pilot program to address the unique needs of girls who run away from their parents and  
553 legal guardians.

554 SECTION 40. Section 1 shall take effect 3 years after the effective date of this act.