

SENATE No. 2520

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

SENATE, Monday, May 14, 2018

The committee on Children, Families and Persons with Disabilities, to whom was referred the petition (accompanied by bill, Senate, No. 45) of Jennifer L. Flanagan, Kay Khan, Joseph D. McKenna, James B. Eldridge and other members of the General Court for legislation to strengthen protection of children in the Commonwealth,- reports the accompanying bill (Senate, No. 2520).

For the committee,
Joan B. Lovely

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An Act strengthening protection of children in the Commonwealth.

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. Section 7 of chapter 76 of the General Laws, as so appearing, is hereby
2 amended by inserting at the end thereof the following paragraph:-

3 Notwithstanding section 5 of this chapter, any school age child removed from the home
4 of the child’s parents or guardians under chapter 119, sections 23, 24, 25, 26, 39G or 39H and
5 placed in the custody of the department of children and families or another custodian, may
6 continue to attend the school in which the child was enrolled at the time of removal (“the school
7 of origin”). The right to attend the school of origin shall apply to any subsequent placement. If
8 the child’s custodian determines, in consultation with the child and the child’s school, that it is
9 not in the best interest of the child to remain in the school of origin, the child shall be
10 immediately and appropriately enrolled in the new school. The child’s custodian shall promptly
11 notify the child’s attorney and the school of origin of the decision. Where the child’s custodian is
12 the department of children and families, and the department determines that it is in the child’s
13 best interest to enroll the child in a school in the district in which the child is placed, the
14 department shall provide the child’s attorney with written notice of the decision. This notice shall

15 identify the factors that form the basis of the decision. Nothing in this section shall be construed
16 to detract from any other right that a child may have under any other law.

17 SECTION 2. Chapter 18C of the General Laws, is hereby amended by inserting after
18 section 4 the following section:-

19 Section 4A. There shall be a child abuse and neglect expert review panel, hereinafter
20 referred to as the panel, under the purview of the child advocate, who shall serve as chair. The
21 members of the panel shall include: the commissioner of the department of children and families,
22 the executive director of the Children's Trust Fund, and 4 members selected by the child
23 advocate to include: a medical expert in the field of pediatrics, an infant mental health specialist,
24 a social worker with a minimum of 10 years direct case work experience, and an individual
25 representing parents involved with the Department. The panel shall review the repeated entry of
26 children into the caseload of the department of children and families. Any open or closed cases
27 within a 12 month period for the same child or the same family unit shall constitute repeated
28 entry. The panel shall determine if any actions can be taken to protect the child from further
29 harm or if any agency regulations should be modified. The panel's review and determinations
30 shall be kept confidential. The panel shall report on any trends that are cycling through families,
31 agency service gaps, and recommendations for policy changes to rectify the repeated abuse and
32 neglect of children as part of the annual report as established in section 10 of this chapter.

33 The child advocate may convene a public meeting or oversight hearing to discuss any
34 trends in child welfare, gather the public's input or determine if further actions should be taken
35 to improve the lives of the children in the care and custody of the commonwealth. Any findings
36 shall be included in the annual report as established in section 10 of this chapter.

37 SECTION 3. Section 22 of Chapter 119, as so appearing, is hereby amended by inserting
38 after the first paragraph the following paragraph: -

39 Any foster home licensee who fails to notify the department of a change in household
40 status shall pay the Department a fine of \$500. The department shall provide notice of this
41 provision in its Massachusetts approach to partnerships in parenting curriculum.

42 SECTION 4. Paragraph (7) of subsection (a) of section 23 of Chapter 119, as so
43 appearing, is hereby amended by inserting after subsection clause (i) the following subsection:-

44 The department shall ensure that the placement of a child in foster care takes into account
45 the appropriateness of the current educational setting and the proximity to the school in which
46 the child is enrolled at the time of each placement; coordinate with the appropriate local
47 educational agencies to ensure that the child remains in the school which the child is enrolled in
48 at the time of each placement; or, if remaining in such school is not in the best interests of the
49 child, ensure that the child is immediately and appropriately enrolled in a new school and that all
50 of the child's educational records have been provided to the school.

51 SECTION 5. Subsection (c) of section 23 of chapter 119 of the General Laws, as
52 appearing in the 2014 Official Edition, is hereby amended by striking out the second paragraph
53 and inserting in place thereof the following two paragraphs:-

54 The department shall also seek to identify any minor sibling or half-sibling of the child.
55 The department and the court shall ensure that children placed in or under the department's care,
56 custody or responsibility are placed in the same home with all siblings and half-siblings unless
57 the department shows by clear and convincing evidence that the best interests of one or more
58 siblings require a separate placement. The court shall make specific findings to support any such

59 best interests finding. Notwithstanding the foregoing, the department may separate a child from
60 one or more siblings or half-siblings to avoid immediate risk of harm to any child. However, if
61 the department does so without prior court approval, it shall file a petition for court approval of
62 its placement decision within one business day thereafter and provide notice to all counsel in any
63 proceeding under this chapter. The court shall hold a hearing regarding such placement change
64 within seven days. The department shall bear the burden of showing by clear and convincing
65 evidence that the best interests of one or more siblings require a separate placement. Any child
66 over the age of seven or an agent of the child who is placed apart from any sibling or half-
67 sibling, even if placed with other siblings or half-siblings, may petition the court for a review and
68 redetermination of its decision authorizing a separate placement. The department shall bear the
69 burden of showing by clear and convincing evidence that the best interests of one or more
70 siblings continues to require a separate placement.

71 If the court authorizes the department to place siblings or half-siblings in separate
72 placements, the department shall make ongoing and systemic efforts to remedy any problems
73 that led to the separate placements. The department shall document its efforts in the case plan.
74 Notwithstanding the provisions of section 21 of this chapter, the court may make any order to
75 ensure the joint placement of siblings or half-siblings as may be in the children's best interests.

76 SECTION 6. Chapter 119 of the General Laws is further amended by inserting after
77 section 23B the following section:

78 Section 23C. As used in this section, the following words shall have the following
79 meanings:-

80 "Department" shall mean the department of children and families.

81 “Foster youth” shall mean a child under the care or custody of the department of children
82 and families or a young adult who has signed a voluntary placement agreement with the
83 department of children and families.

84 “Electronic backpack” shall mean an electronic repository of a foster youth’s educational
85 records.

86 Notwithstanding the provisions of any general or special law to the contrary, the
87 commissioner of the department, in consultation with the office of the child advocate and the
88 secretary of education, shall develop and implement an “electronic backpack” program for the
89 educational stability of foster youth.

90 (a) The department shall create an electronic backpack for each foster youth. The
91 department, in conjunction with the executive office of education, shall determine the format of
92 the electronic backpack. The department will consider methods to prevent further stigmatization
93 of the foster youth while determining the format of the electronic backpack. Each electronic
94 backpack must contain educational records of the foster youth, including the names and
95 addresses of educational providers, the foster youth's grade-level performance, and any other
96 educational information the department requires.

97 (b) The department shall maintain the electronic backpack as part of the department's
98 records for the foster youth as long as the foster youth remains in foster care.

99 (c) The department shall make the electronic backpack available to:

100 (1) any person authorized by law to make educational decisions for the foster youth;

101 (2) any person authorized to consent to medical care for the foster youth; and

102 (3) any provider of medical care to the foster youth if access to the foster youth's
103 educational information is necessary for the provision of medical care and is not prohibited by
104 law.

105 (d) The department shall collaborate with the executive office of education to develop
106 policies and procedures to ensure that the needs of foster youths are met in every school district.

107 SECTION 7. Section 26 of Chapter 119 of the General Laws is hereby amended inserting
108 after section 26C the following section:

109 Section 26D: As used in this section, the following words shall have the following
110 meanings:-

111 “Department” shall mean the department of children and families.

112 (a) The Department shall include as part of its Massachusetts Approach to
113 Partnership in Parenting (MAAP) training for foster parents information regarding the prevention
114 of child abuse, prevention of child sexual abuse, and prevention of commercial sexual
115 exploitation of children. The Department shall consult with outside independent experts with
116 demonstrated expertise in child abuse, child sexual abuse, and the commercial sexual
117 exploitation of children when developing this training.

118 (b) The Department shall include as part of its MAAP training for foster parents
119 information on caring for infants in foster care, including information regarding caring for
120 infants with neonatal abstinence syndrome and substance-exposed infants. The Department shall
121 consult with hospitals and nonprofit entities when developing this training.

122 (c) The Department shall include as part of its MAAP training information for foster
123 parents regarding cultural and racial sensitivity.

124 (d) The Department shall create a 6-hour online or in-person kinship placement
125 training program for relative caregivers taking care of a foster child, with childcare as needed to
126 complete the training.

127 (e) The Department shall require that all foster parents and kinship families
128 participate in 6-hours of training annually.

129 SECTION 8. Section 26 of Chapter 119 of the General Laws is hereby amended by
130 inserting after section 26D the following section:

131 Section 26E: The Department shall offer specialized training to Foster Parents or kinship
132 care providers of special needs children whose goal includes permanency through adoption or
133 kinship so that these families are supported in seeking permanency. To address the unique needs
134 and demands in our state at this time this training shall:

135 (a) Include the impact of foster care, adoption and attachment losses on infants and very
136 young children who are over-represented in our state's foster care system.

137 (b) Include the impact of foster care, adoption and attachment losses on children over the
138 age of nine .

139 (c) Provide training from experts from a diversity of backgrounds on the long-term health
140 and well-being of substance exposed newborns, a population uniquely vulnerable to low rates of
141 adoption and who are classified as "Special needs" under current ASFA language.

142 SECTION 9. Section 26 of Chapter 119 of the General Laws is hereby amended by
143 inserting after section 26E the following section:-

144 Section 26F: Every foster parent including any kinship caretaker shall have:

145 (a) The right to reasonable access to a caseworker who makes the case plan decisions of
146 the children in their care. Reasonable access shall include the social worker and supervisor's
147 office telephone numbers and email addresses as well as, a minimum, monthly visits by social
148 worker;

149 (b) The right to have access to agency staff for assistance in dealing with emergencies on
150 a 24 hour basis;

151 (c) The right to be included in scheduled meetings and appointments concerning the child
152 including but not limited to, individual service planning meetings, foster care reviews, individual
153 educational planning meetings and medical appointments;

154 (d) The right to be provided with training, consultation and assistance in identifying,
155 evaluating and accessing resources and services to meet the foster parent's needs related to the
156 foster parent's role as a foster parent, including, but not limited to, training, consultation and
157 assistance related to improving skills in providing daily care and meeting the needs of the child
158 in foster care, all foster care policies, a foster parent handbook, minimum standards for family
159 foster homes, therapeutic foster care and the mediation procedure;

160 (e) The right to be involved when appropriate with family members and the right to
161 participate in the development of visitation plans;

162 (f) The right to access all information on a child, at placement, and on an ongoing basis,
163 that could impact the care provided the child and/or the health and safety of the child and/or
164 foster family members. Information shall include case plan, health/medical, educational,
165 court/legal decisions, and social history as known to the Department, to better meet the needs of
166 children in their care;

167 (g) The right to be given written notice of all proceedings and hearing pertaining to the
168 child at least 10 days prior to the hearing or proceeding and the right to attend this hearing and be
169 heard;

170 (h) The right to present oral or written evidence addressing the needs, strengths, behavior,
171 and development of the child;

172 (i) The right to accept or refuse a placement within the family foster home and to request
173 with 2 weeks' notice to the department, except in an emergency, the removal of a child from the
174 family foster home for good cause without threat of adverse action by the department. Except in
175 emergencies, the department shall provide a foster parent 2 weeks' notice before a child is
176 removed from the foster parent's care along with a written statement of the reasons for the
177 removal;

178 (j) A foster parent shall treat all information received from the department and its
179 contractors relating to a foster child in the foster parent's care or the child's birth family as
180 confidential. Information necessary for the medical or psychiatric care of the child may be
181 provided to the appropriate practitioners. A foster parent may share information with school
182 personnel that is necessary in order to secure a safe and appropriate education for the child. A

183 foster parent shall share information known to the foster parent related to concerns that arise in
184 the care of the child with the child's caseworker and other members of the child's treatment team;

185 (k) If a child reenters the foster care system and is not placed in a relative's home, the
186 department shall give a former foster parent of the child first consideration for placement of the
187 child. The department shall also give a foster parent first consideration for adoption or permanent
188 placement of a child in the foster parent's care if the child becomes available for adoption or for
189 another planned permanent living arrangement;

190 (l) When making decisions in developing a child's permanency plan, the Department
191 shall consider the length of time a child has been cared for by a single foster family and the bond
192 between the child and foster family;

193 (n) A foster parent may file a grievance in response to any violation of this chapter. The
194 department shall develop and maintain a grievance procedure that includes a mediation
195 procedure to be published in a foster parent handbook within one year of the effective date of
196 this chapter. The department shall establish an advisory committee to assist the department in
197 developing and maintaining the grievance procedure.

198 SECTION 10. Section 26 of the Chapter 119 of the General Laws is hereby amended by
199 inserting after section 26F the following section:-

200 Section 26G. A parent whose child is currently involved with the Department shall have
201 the right to reasonable access to a caseworker who makes the case plan decisions of the children
202 in their care. Reasonable access shall include the social worker and supervisor's office telephone
203 numbers and email addresses. A parent shall have the right to access agency staff for assistance
204 in dealing with emergencies on a 24-hour basis.

205 SECTION 11. Said Chapter 119 is hereby further amended by striking out subsection (g)
206 of section 51B, as so appearing, and inserting in place thereof the following subsection:-

207 (g) Each family assessment and service plan must document the involvement of the
208 parents or guardians and children age 7 or older, including children in the custody of the
209 department and their siblings or half-siblings and children placed by a court in the custody or
210 under the guardianship of a relative or other suitable person, in the development of the plan.
211 Such efforts shall include, but not be limited to: (a) encourage the parents or guardian and the
212 children to participate in the development and review of the plan and attempting to obtain the
213 parents' or guardian's signatures documenting their review of the plan; (b) obtain information
214 through separate and private conversations from the child and the parents about potential kin or
215 other adults with whom the child or the family has a relationship who could serve as a placement
216 for the child; and (c) if either the parents or child is not involved in the development of the plan,
217 the reasons shall be documented.

218 SECTION 12. Section 51F of Chapter 119 of the General laws is hereby amended by
219 inserting after the third paragraph the following:

220 DCF Background Record Check reports of Central Registry Records on a parent or foster
221 parent consisting exclusively of 51A reports determined to be "invalid", "unsupported" or by
222 some other designation conclude that the parent or foster parent was not found to be responsible
223 for abuse or neglect of a child, shall be reported to the hiring authority as "no record". Said
224 report shall be considered a full accounting of the parent or foster parent's central registry record.
225 Nothing in this section shall prevent the Department from maintaining and using this data in
226 investigating future 51A reports.

227 SECTION 13. On or before July 1, 2019 the department shall promulgate revise
228 regulations regarding the implementation of the provisions of Chapter 119 Section 29D and
229 Chapter 210, Section 3 (b) to specify that notice of all proceedings and hearings pertaining to the
230 status of the subject child shall be provided to a foster parent, pre-adoptive parent or relative
231 providing care for the child in writing at least ten days prior to said hearing or proceeding to
232 inform the foster parent, pre-adoptive parent or relative of the time and place of the hearing and
233 his right to attend the hearing and to be heard. Said regulations shall allow for the submission of
234 oral or written testimony of the foster parent, pre-adoptive parent or relative providing care for
235 the child addressing the needs, status, development and best interests of the child in his or her
236 care, to be submitted under pains and penalties of perjury, and shall further provide for guidance
237 in preparation of such written and sworn testimony. Nothing herein shall be construed to provide
238 that such foster parent, pre-adoptive parent or relative shall be made a party to the proceeding.

239 SECTION 14. The Massachusetts office for refugees and immigrants shall, in
240 collaboration with the department of children and families, the department of public health, the
241 department of mental health, the department of elementary and secondary education, the
242 department of higher education, and the department of transitional assistance, identify areas in
243 which there is a need for increasing culturally competent services. For the purposes of this act,
244 “culturally competent services” shall mean a department’s ability to provide direct services to a
245 client in the client’s native language, and with an understanding of and sensitivity to the elements
246 of the client’s culture that would affect their parenting and other behaviors relevant to the
247 departments work with them, which shall be provided by a professional with at least 2 years of
248 experience working with a population culturally similar to that of the client.

249 In order to assess the need for increasing culturally competent services, the
250 Massachusetts office for refugees and immigrants shall: (1) obtain all existing data and
251 information from the departments identified in section 1 regarding any culturally competent
252 services the departments currently provide; and (2) collect population data for each municipality
253 in the commonwealth, which shall identify, for each municipality, any ethnic groups that make
254 up at least 2% of the municipality's population, the language or languages spoken by each such
255 ethnic group, the country of origin of each such ethnic group, and the estimated total population
256 of each such ethnic group.

257 The Massachusetts office for refugees and immigrants shall submit a report on the
258 information collected pursuant to this act, which shall identify areas in need of culturally
259 competent services and recommendations for improving access to culturally competent services,
260 together with drafts of legislation or regulations necessary to carry those recommendations into
261 effect, by filing the same with the governor, and the clerks of the senate and the house of
262 representatives not later than March 31, 2016. The clerks of the senate and the house of
263 representatives shall forward the report to the president of the senate and the speaker of the house
264 of representatives.

265 SECTION 15. The Department shall establish a pilot program to aid independent youth
266 aging out of foster care as they transition from foster kids to independent adults. This pilot
267 program may include the following:

268 (a) An in-person peer-mentoring pilot program in which youths aging out of the foster
269 care are matched with matched with volunteer community mentors who have successfully
270 transitioned out of foster care in the past to discuss the opportunities and challenges of aging out

271 of care, including discussions about employment, housing, transportation, and other support.

272 The Department shall establish background check standards and training for peer-mentors.

273 (b) An E-Mentoring pilot program to be conducted online, over the internet, or through
274 the use of mobile applications for the purposes of connecting foster youth with a mentor who
275 may provide advice about independent living such as skills to maintain employment, affordable
276 housing, transportation, and other support.