## The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court (2021-2022)

SENATE, June 27, 2022.

The committee on Senate Ways and Means to whom was referred the Senate Bill relative to accountability for vulnerable children and families (Senate, No. 32), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2953).

For the committee, Michael J. Rodrigues FILED ON: 6/24/2022

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In the One Hundred and Ninety-Second General Court (2021-2022)

An Act relative to accountability for vulnerable children and families.

*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 16P of chapter 6A of the General Laws, as appearing in the 2020           |
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| 2  | Official Edition, is hereby amended by striking out, in lines 23 and 24, the words "the data |
| 3  | reported by the department of children and families under section 23 of chapter 18B and.     |
| 4  | SECTION 2. Section 6A of chapter 18B of the General Laws, as so appearing, is hereby         |
| 5  | amended by striking out the last paragraph.  |
| 6  | SECTION 3. Section 7 of said chapter 18B, as so appearing, is hereby amended by              |
| 7  | striking out subsection (e).   |
| 8  | SECTION 4. Section 20 of said chapter 18B, as so appearing, is hereby amended by             |
| 9  | striking out the second sentence.  |
| 10 | SECTION 5. Section 23 of said chapter 18B, as added by section 45 of chapter 176 of the      |
| 11 | acts of 2008, is hereby repealed.  |

SECTION 6. Section 23 of said chapter 18B, as added by section 8 of chapter 321 of the
acts of 2008, is hereby amended by striking out the last sentence.

SECTION 7. Said chapter 18B is hereby amended by striking out sections 24 and 25 and
 inserting in place thereof the following 4 sections:-

Section 24. (a)(1) Annually, not later than October 31, the department shall issue a report that provides an overview of the department's performance during the previous fiscal year. The report shall be filed with the governor, the child advocate, the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities. The commissioner shall provide the recipients of the report with an opportunity to discuss its contents with the commissioner or a designee. The report shall be made publicly available on the department's website.

23 (2) The report shall include, but not be limited to, narratives, information, data and 24 analysis on: (i) counts, disaggregated, to the extent feasible, by race and ethnicity, gender, gender 25 identity, sexual orientation, disability and primary language, including, but not limited to: (A) 26 case counts; (B) consumer counts; (C) rates of disproportionality; (D) placement metrics; (E) the 27 number of infants brought into the department's care pursuant to section  $39\frac{1}{2}$  of chapter 119; (F) 28 the number of siblings in placement; (G) the number of children in the care and custody of the 29 department who are designated missing and absent; (H) the number of children and youth who 30 died while in the care and custody of the department; (I) the number of reports filed pursuant to 31 section 51A of said chapter 119; (J) the number of protective responses pursuant to section 51B 32 of said chapter 119; and (K) the number of reports filed against each alleged perpetrator type 33 pursuant to said section 51A of said chapter 119; (ii) safety processes and outcomes,

34 disaggregated, to the extent feasible, by race and ethnicity, gender, gender identity, sexual 35 orientation, disability and primary language, including, but not limited to: (A) safety outcomes; 36 (B) congregate care placement of children in the department's care, including, but not limited to, 37 the number of children in each type of congregate care setting; (C) permanency processes and 38 outcomes, including, but not limited to, rates of: (1) reunification; (2) adoption; and (3) kinship 39 guardianship; (D) educational outcomes, including, but not limited to: (1) school placement 40 information; (2) the average range of the number of school placement changes during the 41 previous year; (3) the number of Individualized Education Plans; (4) attendance rates; (5) high 42 school graduation rates; and (6) school disciplinary actions; and (E) well-being outcomes, 43 including, but not limited to, the rates and timeliness of the delivery of medical and behavioral 44 health services; (iii) operations, including, but not limited to: (A) staffing trends; (B) caseloads; 45 (C) the department's budget, including, but not limited to, funding levels; (D) service costs; (E) 46 medical services and advancements in providing medical services to children and young adults in 47 the department's care; (F) the number of subsidy payments and amounts expended for foster 48 care, adoptive families and guardianship families to provide assistance, including financial 49 assistance, for the care of children and the number of foster care, adoptive care and kinship 50 guardianship subsidies for which federal reimbursement was received; (G) the foster care review 51 system and any recommendations for its improvement; (H) services and accommodations 52 available to caregivers and children who are individuals with disabilities; (I) the number of 53 disability requests made to the department and the number of disability requests granted by the 54 department; (J) the number of disability-related complaints filed with the department by or on 55 behalf of parents with disabilities; (K) complaints filed with the department's ombudsman, 56 including, but not limited to, a summary of the complaints filed, broken down by type of

57 complaint and the area offices involved with the complaint and the case; (L) any new or ongoing 58 initiatives to improve practices, procedures or policy of the department; and (M) the 59 implementation and execution of support and stabilization programs and the federal Family First 60 Prevention Services Act; and (iv) a measurement of the department's progress towards meeting 61 the targets established in the 5-year plan pursuant to subsection (e). The report shall also include 62 comparative departmental information from prior fiscal years

63 (3) Following the release of the department's annual report, the child advocate shall 64 solicit input from members of the public, advocates and diverse stakeholders from across the 65 commonwealth for a period of 60 days. Additional public comment periods may be opened 66 following the initial 60-day period in the same calendar year if determined necessary by the 67 department or the child advocate. Following the completion of the initial 60-day comment period 68 or any subsequent comment period, the child advocate shall analyze the public comment 69 received and report on their findings, including, but not limited to, any disparate impact in 70 services based on geographic differences and any other relevant factors. The report shall be filed 71 with the governor, the clerks of the senate and house of representatives, the senate and house 72 committees on ways and means and the joint committee on children, families and persons with 73 disabilities. The report shall be made publicly available on the department's website

(b)(1) Not more than 60 days after the end of each fiscal quarter, the department shall report on departmental, regional office and area office data. The report shall include, but not be limited to, data, disaggregated, to the extent feasible, by race and ethnicity, gender, gender identity, sexual orientation, disability and primary language, on: (i) consumer counts; (ii) the number of reports filed pursuant to section 51A of chapter 119, including counts of reports received, screened-in and screened-out in the quarter; (iii) department case counts, including

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counts of clinical and adoption cases in the quarter; (iv) counts of children and youth in
placement; and (v) counts of children and youth not in placement. The report shall be posted
publicly on the department's website.

(2) The department shall notify the senate and house committees on ways and means and
the joint committee on children, families and persons with disabilities when data from a report
issued pursuant to paragraph (1) significantly departs from trends reported previously.

(c) If the department is unable to submit the report under subsection (a), the report under
subsection (b) or any other statutorily-mandated reports by the respective deadline, the
department shall, in writing, notify the governor, the child advocate, the clerks of the senate and
house of representatives, the senate and house committees on ways and means and the joint
committee on children, families and persons with disabilities and provide an explanation for the
delay.

(d) The department shall notify the joint committee on children, families and persons
with disabilities when draft regulations are made available by the department for public
comment. Not more than 30 days after the promulgation of regulations or the effective date of
adopted or revised departmental policies relative to services provided to children and families,
the department shall provide copies of the regulations or departmental policies to the joint
committee on children, families and persons with disabilities.

(e) The department, in consultation with other governmental and nongovernmental
partners, shall establish a 5-year plan that shall include numerical targets for the department's
performance in each year and in each of its regions in the areas of safety, permanence and wellbeing of children receiving services from or in custody of the department. The plan shall include

a description of how the department will measure its progress toward meeting the numerical
targets and may include different targets for different regions. Annually, not later than March 31,
the department shall update and submit the plan to the joint committee on children, families and
persons with disabilities.

106 The department shall publish and prominently maintain on its website the current plan,107 the targets for previous years and the department's performance in meeting those targets.

(f) (1) If the governor declares a state of emergency in the commonwealth, the department shall report on data relevant to the state of emergency's impact on the department's operations, programs and consumers. The department shall file each report with the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities not less than once every month from the declaration of the state of emergency to 60 days after the termination of the state of emergency. The report shall be made publicly available on the department's website.

115 (2) The report shall include, but not be limited to: (i) demographic information on 116 consumers impacted by the state of emergency; (ii) the number of reports and substantiated 117 reports made that month to the department pursuant to section 51A of chapter 119 and 118 comparative data on the number of reports made to the department for the same time period in 119 prior years before the declaration of the state of emergency; (iii) the number of reports and 120 substantiated reports that were filed by mandated reporters, including, but not limited to, the 121 number of reports filed by each category of mandated reporter and the number of intake and 122 home removal episodes as a result of the reports; and (iv) the number of case closures and exits 123 from care.

(3) The department may conduct surveys of consumers in order to collect non-identifiable
and identifiable data during the state of emergency and after its conclusion. Identifiable survey
data may be collected in order to adequately provide for the needs of its consumers, including,
but not limited to, questions regarding food insecurity, housing insecurity, educational needs,
technology needs and internet and phone service capacity and other relevant needs.

129 Section 25. Annually, not later than October 31, the department shall report on services 130 provided to young adults over the age of 18. The report shall include, but not be limited to: (i) a 131 summary of the process by which a young adult may continue to receive services from the 132 department upon reaching the age of 18; (ii) the types of services provided to young adults; (iii) 133 the number of young adults who have elected to sustain a connection with the department in the 134 previous fiscal year; (iv) to the extent feasible, the number of young adults who have elected not 135 to remain with the department and have transitioned out of the child welfare system in the 136 previous fiscal year, including young adults who had previously elected to sustain a connection 137 with the department; (v) the number of young adults who elected to return to the department in 138 the previous fiscal year after transitioning out of the child welfare system; (vi) the number of 139 young adults who sought to sustain a connection with the department in the previous fiscal year 140 but were denied by the department; (vii) the types of services provided to young adults and the 141 number of young adults receiving each type of service; (viii) the number of youth reunified with 142 their families at age 17 or older; (ix) the number of all young adults over the age of 18 who 143 transitioned out of the child welfare system without permanent homes in the previous fiscal year, 144 including the number of young adults with: (A) employment; (B) plans to attend post-secondary 145 education; and (C) secure housing; (x) the reasons for young adults exiting care from ages 18 to 146 23 in the previous fiscal year; and (xi) the number of young adults over 18 who receive funds

directly from the department. Where feasible, reported information shall be disaggregated by
race and ethnicity, gender, gender identity, sexual orientation, disability and primary language.
The report shall be submitted to the child advocate, the clerks of the senate and house of
representatives, the house and senate committees on ways and means and the joint committee on
children, families and persons with disabilities. The department may satisfy the reporting
requirements of this section by providing the requested information in an annual report filed
under section 26.

154 Section 26. (a) Annually, not later than October 31, the department shall report on its fair 155 hearing process and cases. The report shall include, but not be limited to: (i) information on the 156 fair hearing requests open at any time during the previous fiscal year; and (ii) for each hearing 157 request: (A) the subject matter of the appeal; (B) the outcome if resolved prior to a fair hearing 158 decision; (C) the number of days between the hearing request and the first day of the hearing; 159 (D) the number of days between the close of the evidence and the hearing officer's decision; (E) 160 the number of days of continuance granted at the appellant's request; (F) the number of days of 161 continuance granted at the request of the department or the hearing officer, specifying which 162 party made the request; and (G) whether the department's decision that was the subject of the 163 appeal was affirmed or reversed; provided, however, that the information shall be in a form that 164 shall not include personally-identifiable information. The report shall be submitted to the child 165 advocate, the clerks of the senate and house of representatives, the senate and house committees 166 on ways and means and the joint committee on children, families and persons with disabilities. 167 The report shall be made publicly available on the department's website.

(b) The department shall maintain and make available to the public during regularbusiness hours a record of its fair hearings that shall include, but not be limited to, for each

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170 hearing request: (i) the date of the request; (ii) the date of the hearing decision; (iii) the decision 171 rendered by the hearing officer; (iv) the final decision rendered upon the commissioner's review; 172 and (v) the number of fair hearing requests that have been pending for more than 180 days at any 173 time during the fiscal year and how many have been heard but not decided, except for the fair 174 hearings that have been stayed at the request of the district attorney; provided, however, that the 175 information shall be in a form that shall not include personally-identifiable information. For fair 176 hearing requests that are pending for more than 180 days at any time during the fiscal year, 177 except for requests that have been stayed at the request of the district attorney, the report shall 178 provide the number of such cases, how many have been heard but not decided and how many 179 have been decided by the hearing officer but not yet issued a final agency decision.

180 If there are more than 225 fair hearing requests open for more than 180 days at the end 181 of any month during the first 6 months of a fiscal year, then an additional report of such requests 182 shall be provided to entities required to receive the report pursuant to subsection (a) not later than 183 April 30. The department shall make redacted copies of fair hearing decisions available not later 184 than 30 days after a written request.

185 Section 27. Notwithstanding any general or special law to the contrary, any social service 186 program, as defined by section 22N of chapter 7, or any program or service that is reimbursable 187 under Title XIX of the federal Social Security Act that is providing services to a child who is in 188 the custody of or receiving services from the department or is providing services to a young adult 189 or adult receiving services from the department shall provide the department with information 190 not more than 5 business days after receiving a request for information from a department social 191 worker for the purposes of conducting a collateral check; provided, however, that programs or 192 services shall comply with all applicable state and federal privacy requirements, including those

imposed by the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104–
191, the federal American Recovery and Reinvestment Act of 2009, P.L. 111–5, 42 C.F.R. 2.11
et seq. and 45 C.F.R. 160, 162 and 164.

SECTION 8. Section 5 of chapter 18C of the General Laws, as appearing in the 2020
Official Edition, is hereby amended by adding the following subsection:-

(i) The child advocate shall make any multi-system investigation publicly available and
shall provide notice to the governor, the attorney general, the speaker of the house of
representatives and the senate president prior to making the multi-system investigation publicly
available. The office shall report to the governor, the attorney general, the speaker of the house
of representative and the senate president if, after making a multi-system investigation, the office
has a reasonable belief that an act or omission of an executive agency or contracted provider
contributed to the harm suffered by the child.

SECTION 9. Section 15A of chapter 75 of the General Laws, as so appearing, is hereby
 amended by striking out the third paragraph and inserting in place thereof the following
 paragraph:-

The center shall maintain the confidentiality of any individual whose personal information is made available to the center pursuant to section 7 of chapter 15D, but compliance with individual confidentiality as required by this section shall not prevent the publication of aggregated research information or case studies in which personal identifiers have been removed. SECTION 10. Subsection (f) of section 23 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the last sentence. SECTION 11. Subsection (h) of said section 23 of said chapter 119, as so appearing, is
hereby amended by striking out the second paragraph.

SECTION 12. Said section 23 of said chapter 119, as so appearing, is hereby further
 amended by adding the following subsection:-

218 (i) The commissioner shall establish and periodically update an internal review policy to 219 require a review prior to a determination to remove a child from their parent or caretaker, reunify 220 a child with their parent or caretaker or terminate parental rights. Members of the review shall 221 include, but not be limited to: (i) the social worker with direct case responsibility for the child or 222 young adult whose case is being reviewed; (ii) the immediate supervisor of the social worker; 223 (iii) counsel from the area office; (iv) the area director; (v) the area clinical manager; and (vi) 224 any relevant specialist as determined by the commissioner. The review shall include, but not be 225 limited to, the child's foster care review results and recommendations and information from 226 collateral contacts consistent with the ongoing casework and documentation policy. The outcome 227 of the review and all accompanying notes and files shall be included in the case records of the 228 child.

SECTION 13. Section 29 of said chapter 119, as so appearing, is hereby amended by
 inserting after the second paragraph the following 2 paragraphs:-

The department shall provide notice of a change in placement or hospitalization to a child or young adult's attorney not less than 5 business days before any non-emergency change in the child or young adult's placement or any non-emergency hospitalization and not more than 1 business day after any emergency change in the child or young adult's placement or any emergency hospitalization.

| 236 | If the department receives a report pursuant to section 51A, the department shall notify                      |
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| 237 | the attorney of the child or young adult involved in the reported incident not more than 1                    |
| 238 | business day after the department's screening decision has been made.   |
| 239 | SECTION 14. Section 39 <sup>1</sup> / <sub>2</sub> of said chapter 119, as so appearing, is hereby amended by |
| 240 | striking out the last paragraph.  |
| 241 | SECTION 15. Section 51D of said chapter 119, as so appearing, is hereby amended by                            |
| 242 | striking out the last paragraph.  |
| 243 | SECTION 16. Section 51E of said chapter 119, as so appearing, is hereby amended by                            |
| 244 | striking out, in line 2, the figure "51D" and inserting place thereof the following figure:- 51C.             |
| 245 | SECTION 17. Section 5E of chapter 210 of the General Laws is hereby repealed.                                 |
| 246 | SECTION 18. The department of children and families, in consultation with the office of                       |
| 247 | the child advocate, shall identify potential modifications to specific policies, procedures, rules or         |
| 248 | protocols to improve the process of transferring cases involving multiple social workers or area              |
| 249 | offices and ensure the efficient and accurate transfer of case information and care for the child.            |
| 250 | The department shall determine whether new policies or regulations are needed to improve the                  |
| 251 | process of transferring cases between social workers or between area offices.                                 |
| 252 | Not later than April 31, 2023, the department shall submit a report to the clerks of the                      |
| 253 | senate and house of representatives, the senate and house committees on ways and means and the                |
| 254 | joint committee on children, families and persons with disabilities that shall include, but not be            |
| 255 | limited to: (i) the department's findings of the review, including, but not limited to, an evaluation         |
| 256 | of how policies are implemented in each area office and barriers to transferring information and              |
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cases between social workers or area offices; (ii) the number of cases transferred between area offices in fiscal year 2022; (iii) the number of cases transferred between social workers within the same area office in fiscal year 2022; (iv) any actions the department has taken, or plans to take, to address barriers to transferring information and cases between social workers and area offices, including, but not limited to, changes to policies and regulations; and (v) proposed legislation that may improve stability for children whose cases involve multiple social workers or area offices, if applicable.

264 SECTION 19. The board of registration of social workers shall report on the barriers 265 prospective social workers who took the licensure examination in 2019, 2020 or 2021 face 266 entering the profession as a social worker, as defined in section 130 of chapter 112 of the 267 General Laws, due to the licensure examination. The report shall include, but not be limited to: 268 (i) the total number of individuals, broken down by each licensure type; (ii) aggregate data on the 269 age, race, ethnicity and primary language of such individuals; (iii) the total number of such 270 individuals who reported a learning disability or other disability; and (iv) in a de-identified form, 271 the number of such individuals who, in 2019, 2020 or 2021, were taking the examination for the 272 first, second, third, fourth or more time, broken down by licensure type. The report shall include 273 a description of the accommodations offered for individuals with disabilities and individuals 274 whose primary language is a language other than English.

Not later than April 31, 2023, the board shall submit the report to the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities, including any recommendations on how to eliminate any cultural and implicit bias related to entry into the profession as a social worker, including as it relates to the licensure examination.

- 280 SECTION 20. The initial 5-year plan required in subsection (e) of section 26 of chapter
- 281 18B of the General Laws shall be submitted to the joint committee on children, families and
- 282 persons with disabilities not later than March 31, 2023.