

**SENATE . . . . . No. 61**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Joan B. Lovely***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing the Massachusetts foster care review office.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>

**SENATE . . . . . No. 61**

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By Ms. Lovely, a petition (accompanied by bill, Senate, No. 61) of Joan B. Lovely, Kay Khan and Mary S. Keefe for legislation to establish the Massachusetts foster care review office. Children, Families and Persons with Disabilities.

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**The Commonwealth of Massachusetts**

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

An Act establishing the Massachusetts foster care review office.

*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 18B of the General Laws is hereby amended by striking section  
2 6A.

3 SECTION 2. The General Laws are hereby amended by inserting after Chapter 18B the  
4 following chapter: CHAPTER 18D. FOSTER CARE REVIEW OFFICE.

5 Section 1. As used in this chapter, the following words shall have the following  
6 meanings, unless otherwise noted:

7 “Board”, the foster care review office governing board.

8 “CASA”, court appointed special advocates.

9 “Council”, foster care review office interdisciplinary council.

10 “Department”, the department of children and families.

11 “Foster care placement”, all out-of-home placement of children, youth or young adults by  
12 the department whether voluntarily or by court assigned custody.

13 “FCRO”, the foster care review office created pursuant to this chapter.

14 “Foster care review”, an administrative review of the status of each child, youth or young  
15 adult who is in foster care placement.

16 “Local panel”, a local foster care review panel of trained citizen volunteers and FCRO  
17 staff created pursuant to this chapter.

18 “Parties”, all parties involved in a specific child, youth or young adult case.

19 “Permanency”, a legal, permanent family living arrangement.

20 “Secretary”, the secretary of the executive office of health and human services

21 Section 2. (a) There shall be an office of foster care review, which shall be independent  
22 of any supervision or control by any executive agency. The FCRO shall be established as an  
23 independent state agency, overseen and supported by the board.

24 (b) The FCRO shall conduct foster care case reviews every six months of every child in  
25 foster care placement to make determinations and recommendations regarding the placement and  
26 progress towards permanency; provide information and direct reporting to the legislature, the  
27 department, the governor, the secretary, the chief justices of the juvenile and the probate and  
28 family courts, and the public regarding the foster care system in Massachusetts; make  
29 recommendations regarding foster care policy; and ensure accountability and transparency  
30 regarding the foster care system.

31 (1) The FCRO shall designate local panels of trained citizen volunteers to conduct foster  
32 care case reviews for every child in foster care placement at least every six months while in  
33 placement.

34 (2) The FCRO shall create and implement the following:

35 I. Policies and procedures regarding the duties of FCRO staff including the scheduling  
36 and conduct of case reviews, advanced notice to parties to the case, development of individual  
37 case review reports including findings and recommendations, dissemination of individual case  
38 review reports to the parties, and follow-up of individual cases in accordance with FCRO  
39 policies and procedures;

40 ii. Guidelines regarding citizen volunteer qualifications and recruitment;

41 iii. Training programs for citizen volunteers which shall include an initial training  
42 program and periodic in-service training programs;

43 iv. Policies and procedures for local panels in the conduct of individual case reviews;

44 v. Policies and procedures for FCRO regarding the conduct of reviews, follow-up of  
45 individual cases between reviews, communication with parties, structure, format and content of  
46 individual case review reports and access to data and information;

47 vi. A central record-keeping system for all local panel files, including individual case  
48 reviews and aggregate data;

49 vii. Content and format of periodic and annual FCRO aggregate reports.

50 (3) The FCRO shall provide periodic and annual aggregate reports to the legislature,  
51 governor, secretary, the department, the chief justices of the juvenile and the probate and family  
52 courts and the public.

53 (4) The FCRO shall have access to all relevant information regarding any child, youth or  
54 young adult eligible for foster care case review including, but not limited to, data, records and  
55 case files provided to the FCRO by the department.

56 (5) Individual case review reports shall be provided to all parties to the legal case for  
57 judicial consideration and for the purpose of permanency planning.

58 (c) The FCRO shall be the only entity that conducts periodic, administrative foster care  
59 case reviews as required by the Adoption Assistance and Child Welfare Act of 1980 (Public Law  
60 96-272).

61 Section 3. (a) The board shall hire an FCRO executive director.

62 (b) Any person appointed to the position of executive director shall be selected without  
63 regard to political affiliation and on the basis of integrity and demonstrated ability in leadership,  
64 organizational management, collaboration, and child welfare, advocacy or law.

65 (c) The executive director may be removed from office for cause by a majority vote of  
66 the board. Such cause may include substantial neglect of duty, gross misconduct or conviction  
67 of a crime. The cause for removal shall be stated in writing and shall be sent to the governor,  
68 attorney general, auditor and clerks of the senate and house of representatives at the time of  
69 removal and shall be a public document.

70           Section 4. (a) The board shall have a maximum of thirteen members, geographically  
71   diverse and appointed by a majority vote of the governor, attorney general and auditor.  
72   Membership shall include the child advocate or designee, the department commissioner or  
73   designee, a representative of the Children’s League of Massachusetts, a Massachusetts CASA  
74   program director, a state educational administrator/superintendent, a legal representative of the  
75   child and family division of the committee for public counsel services, a pediatrician with  
76   expertise in the area of adverse childhood experiences, a representative of organized labor to be  
77   designated by the president of the collective bargaining unit that represents the social workers of  
78   the department, a foster parent, an adult foster care alumni, one former department staff  
79   reviewer, and two current citizen volunteer reviewers with a minimum of five years experience  
80   as a reviewer.

81           (b) The members shall have no pecuniary interest in the foster care system and shall not  
82   be employed by the FCRO, the executive office of health and human services, the department, a  
83   child welfare agency providing services on behalf of the department, the juvenile court or the  
84   probate and family court.

85           (c) The terms of the members shall be for three years, with the exception of the child  
86   advocate who may serve as long as he/she serves as the child advocate. Members shall not serve  
87   more than two consecutive terms, except that members shall serve until their successors have  
88   been appointed.

89           (d) The Board shall meet at least four times each calendar year. Each member shall attend  
90   at least two meetings each calendar year and shall be subject to removal for failure to attend at  
91   least two meetings unless excused by a majority of the members of the board.

92 (e) The board shall:

93 (1) Hire and fire the executive director for the FCRO;

94 (2) Annually set the salary of the executive director; and

95 (3) Support and facilitate the work of the FCRO.

96 (f) The executive director shall be the administrative head of the FCRO and shall devote  
97 full-time to the duties of the FCRO. The executive director shall provide information and  
98 reporting services, provide analysis of information obtained, and oversee foster care case reviews  
99 and tracking. The executive director shall, through information analysis and with the assistance  
100 of the board, (1) determine key issues of the foster care system and make recommendations to  
101 improve the system, (2) identify key areas of strength and (3) make policy recommendations.

102 (g) The executive director of the FCRO shall be responsible for all human resource  
103 planning and management; for the duties of the office as provided by law, including the annual  
104 aggregate report and any periodic reporting; data collection and analysis; and oversight and  
105 training of local panels of citizen volunteers. The executive director shall meet at least monthly  
106 with the council to review and address issues and concerns regarding services for children,  
107 youth and families as well as individual case challenges that require escalation to address or  
108 resolve.

109 Section 5. (a) The FCRO shall designate local panels of citizen volunteers, in  
110 geographical locations that correspond with the department's service areas, to conduct foster care  
111 case reviews. The number of panels required is determined by the FCRO in accordance with the  
112 number of children, youth and young adults in foster care placement within each service area.

113 The executive director of the office shall create and implement citizen volunteer recruitment  
114 efforts and select citizen volunteers from local areas to serve on local panels. A person employed  
115 by the FCRO, the department, a child welfare agency or juvenile and probate/family courts shall  
116 not be appointed to a local panel with the exception of a foster care or kinship individual.

117 (b) Each local panel, comprised of one FCRO staff reviewer and two trained citizen  
118 volunteers, shall conduct individual foster care case reviews in accordance with the policies and  
119 procedures created and implemented by the FCRO.

120 Section 6. (a) The foster care case review shall be conducted to determine:

121 (1) Necessity, appropriateness and safety of the child/youth/young adult's current  
122 placement;

123 (2) Extent of the parties' compliance with the service plan;

124 (3) Extent of progress made toward alleviating or mitigating the causes necessitating the  
125 placement;

126 (4) Extent to which services in the plan are being provided and the identification of any  
127 barriers to receiving the needed services;

128 (5) Progress made toward the permanency goal;

129 (6) Whether the permanency goal should be amended;

130 (7) Projected date by which child may be in a permanent placement;

131 (8) Goals for the next six months;



132 (9) Additional findings and recommendations in accordance with the child/youth/young  
133 adult's best interest.

134 (b) The local foster care case review meeting shall be facilitated by a FCRO staff  
135 reviewer who is responsible for completing the individual case review report of findings and  
136 recommendations.

137 (c) Anyone with a role in achieving the permanency goal for the child, youth or young  
138 adult is invited to the review. The individual case review report shall be submitted to the  
139 department, the juvenile or probate/family court, and all other legal parties to the case within  
140 thirty days after the foster care case review.

141 (d) The department will comply with the FCRO individual case review findings and  
142 recommendations, subject to an appeals process developed by the FCRO and the department.

143 Section 7. (a) The FCRO interdisciplinary council shall include commissioner level or  
144 designee representation of the department, the office of the child advocate, developmental  
145 services (DDS), elementary and secondary education (DOE), mental health (DMH), public  
146 health (DPH), transitional assistance (DTA), youth services (DYS) and the Massachusetts  
147 rehabilitation commission (MRT).

148 The council shall be chaired by the FCRO executive director and shall convene at least  
149 monthly. The FCRO shall ensure that appropriate services are being delivered in the best interest  
150 of the child, youth or young adult.

151 (b) The council shall:

152 (i) Address and resolve case specific issues that have been elevated by the FCRO; and

153 (ii) Address systemic issues impacting progress towards permanency and services  
154 focused on the best interest of children, youth and young adults in foster care placement brought  
155 to the council's attention by the FCRO executive director.

156 Section 8. (a) The department shall provide unrestricted access of the FCRO to any and  
157 all information pertaining to the child/youth/young adult's needs including electronic and hard  
158 copy records, reports, and materials, specifically department records including evaluations  
159 conducted by external or independent providers and court evaluations.

160 (b) The department shall notify the FCRO of a child/youth/young adult removal from  
161 home, placement, change to placement or case closure no later than two weeks from the date of  
162 the occurrence.

163 (1) The FCRO shall be bound by any limitations on the use or release of information  
164 imposed by law upon the party furnishing such information.

165 Section 9. (a) The FCRO executive director shall develop internal procedures, including  
166 staffing and budget, subject to appropriation, appropriate for the effective performance of his/her  
167 duties and to carry out the functions of the office.

168 Section10. (a) The FCRO executive director shall report annually to the governor, the  
169 president of the senate, the speaker of the house of representatives, the joint committee, the chief  
170 justices of the juvenile and the probate and family courts, the secretary and the commissioner of  
171 the department on the activities of the FCRO, including but not limited to statistics and analysis  
172 of aggregate data from the foster care reviews regarding strengths, issues, policy concerns, and  
173 problems which have come to the attention of the FCRO and the executive director from analysis

174 of the aggregate data. The executive director shall make recommendations to address the issues,  
175 concerns and problems identified.

176 (b) The report shall be made public.

177 Section 11. (a) No person employed by or contracted by or volunteering for the FCRO  
178 shall be subject to suit directly, derivatively or by way of contribution or indemnification for any  
179 civil damages under the laws of the commonwealth resulting from any act or omission performed  
180 during or in connection with the discharge of his/her duties within the scope of employment or  
181 appointment, unless such act or failure to act was committed with gross negligence, maliciously  
182 or in bad faith.