

SENATE No. 66

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

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>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/30/2023</i>

SENATE No. 66

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 66) of Joanne M. Comerford and Vanna Howard for legislation to establish the Massachusetts foster care review office. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 88 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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 out section
2 6A.

3 SECTION 2. The General Laws are hereby amended by inserting after Chapter 18C the
4 following chapter:-

5 CHAPTER 18D.

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

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

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

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

11 “Foster care placement”, all out-of-home placements of children, youth, or young adults
12 by 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 foster care review panel of trained volunteer citizen reviewers and
17 FCRO 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 6 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 oversight, accountability and
30 transparency regarding the foster care system.

31 (1) The FCRO shall designate local panels of trained citizen reviewers to conduct foster
32 care case reviews for every child in foster care placement at least every 6 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;

39 (ii) Guidelines regarding citizen reviewer qualifications and recruitment;

40 (iii) Training programs for citizen reviewers which shall include an initial training
41 program and periodic in-service training programs;

42 (iv) Policies and procedures for local panels in the conduct of individual case reviews;

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

46 (vi) A record-keeping system for all local panel files, including individual case reviews
47 and aggregate data; and

48 (vii) Content and format of periodic and annual FCRO aggregate reports.

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

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

55 (5) Individual case review reports shall be provided to all parties to the legal case for
56 judicial consideration and for the purposes of the safety and well-being of the child and
57 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 of
67 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 no more than 15 members and be as geographically
71 diverse as possible. The members shall include the child advocate or designee, a representative
72 of the Children’s League of Massachusetts, a legal representative of the child and family division
73 of the committee for public counsel services, a representative of the Massachusetts chapter of the
74 American Academy of Pediatrics with expertise in the area of adverse childhood experiences, a
75 representative of Citizens for Juvenile Justice, a representative of the Massachusetts Alliance for
76 Families, a representative from Massachusetts commission on LGBTQ youth, a representative of
77 the Disability Law Center, a representative of the Boston University Center for Antiracist
78 Research, a representative of the Massachusetts chapter of the Foster Care Alumni of America, a
79 Massachusetts-based member of FosterClub, Inc., and a representative of foster parent advocacy
80 organization identified by Citizens for Juvenile Justice and the Commission on LGBTQ Youth,
81 and the following persons chosen by the secretary of health and human services: 1 former
82 department staff reviewer, and 2 citizen volunteer reviewers with a minimum of 5 years’
83 experience as a reviewer.

84 (b) The representative of the Children’s League of Massachusetts and the representative
85 from the Massachusetts chapter of the Foster Care Alumni of America shall be the co-chairs of
86 the board.

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

91 (d) The terms of the members shall be for 3 years, with the exception of the child
92 advocate who may serve while acting as the child advocate. Members shall not serve more than 2
93 consecutive terms, except that members shall serve until their successors have been appointed.

94 (e) The Board shall meet at least 4 times each calendar year. Each member shall attend at
95 least 2 meetings each calendar year and shall be subject to removal for failure to attend at least 2
96 meetings unless excused by a majority of the members of the board.

97 (f) The board shall:

98 (1) Recommend a FCRO executive director to be appointed by a majority vote of the
99 governor, attorney general and auditor.

100 (2) Hire and fire the executive director for the FCRO;

101 (3) Annually set the salary of the executive director; and

102 (4) Support and facilitate the work of the FCRO.

103 (g) The executive director shall be the administrative head of the FCRO and shall devote
104 full-time to the duties of the FCRO. The executive director shall provide information and
105 reporting services, provide analysis of information obtained, and oversee foster care case reviews
106 and tracking. The executive director shall, through information analysis and with the assistance
107 of the board, (1) determine key issues of the foster care system and make recommendations to
108 improve the system, (2) identify key areas of strength and (3) make policy recommendations.

109 (h) The executive director of the FCRO shall be responsible for all human resource
110 planning and management; for the duties of the office as provided by law, including the annual
111 aggregate report and any periodic reporting; data collection and analysis; and oversight and

112 training of local panels of citizen reviewers. The executive director shall meet at least monthly
113 with the council to review and address issues and concerns regarding services for children, youth
114 and families as well as individual case challenges that require escalation to address or resolve.

115 Section 5. (a) The FCRO shall designate local panels of citizen reviewers, in
116 geographical locations that correspond with the department's service areas, to conduct foster care
117 case reviews. The number of panels required is determined by the FCRO in accordance with the
118 number of children, youth and young adults in foster care placement within each service area.
119 The executive director of the office shall create and implement citizen volunteer recruitment
120 efforts and select citizen volunteers from local areas to serve on local panels. A person employed
121 by the FCRO, the department, a child welfare agency or juvenile and probate or family courts
122 shall not be appointed to a local panel.

123 (b) Each local panel, comprised of one FCRO staff reviewer and 2 trained citizen
124 reviewers, shall conduct individual foster care case reviews in accordance with the policies and
125 procedures created and implemented by the FCRO.

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

127 (1) necessity, appropriateness and safety of the child, youth, or young adult's current
128 placement;

129 (2) extent of the parties' compliance with the permanency or action plan;

130 (3) extent of progress made toward alleviating or mitigating the causes necessitating the
131 placement;

132 (4) extent to which services in the plan are being provided and the identification of any
133 barriers to receiving the needed services;

134 (5) progress made toward the permanency goal;

135 (6) whether the permanency goal should be amended;

136 (7) projected date by which child may be in a permanent placement;

137 (8) goals for the next 6 months;

138 (9) additional findings and recommendations in accordance with the child, youth, or
139 young adult's best interest; and

140 (10) well-being status of the child or youth; provided, that well-being shall be of the
141 whole child or youth and includes physical health development and safety; psychological and
142 emotional development; social development and behavior; and cognitive development and
143 educational achievement.

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

147 (c) Anyone with a role in achieving the permanency goal for the child, youth or young
148 adult shall be invited to the review. The individual case review report shall be submitted to the
149 department, the juvenile or probate and family court, and all other legal parties to the case within
150 30 days after the foster care case review.

151 (d) The department shall comply with the FCRO individual case review findings and
152 recommendations, subject to an appeals process developed and agreed to by the FCRO and the
153 department.

154 Section 7. (a) The FCRO interdisciplinary council shall include commissioner level or
155 designee representation of the department, the office of the child advocate, the department of
156 developmental services, the department of elementary and secondary education, the department
157 of mental health, the department of public health, the department of transitional assistance, the
158 department of youth services and the Massachusetts rehabilitation commission. Experts may be
159 invited to the council meetings to address specific concerns or issues, including racial
160 disproportionality, transition age youth, and issues and needs relating to lesbian, gay, bisexual,
161 transgender or queer people. The council shall be chaired by the FCRO executive director and
162 shall convene at least monthly. The FCRO shall ensure that appropriate services are being
163 delivered in the best interest of the child, youth or young adult.

164 (b) The council shall:

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

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

169 Section 8. (a) The department shall provide the FRCO with unrestricted access to any and
170 all information pertaining to the child, youth, or young adult's needs including electronic and
171 hard copy records, reports, and materials, specifically department records including evaluations
172 conducted by external or independent providers and court evaluations.

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

176 The FCRO shall be bound by any limitations on the use or release of information
177 imposed by law upon the party furnishing such information.

178 Section 9. (a) The FCRO executive director shall develop internal procedures, including
179 staffing and budget, subject to appropriation, appropriate for the effective performance of all
180 duties and to carry out the functions of the office.

181 Section 10. (a) The FCRO executive director shall report annually to the governor, the
182 president of the senate, the speaker of the house of representatives, the joint committee on
183 children, families and persons with disabilities, the chief justices of the juvenile and the probate
184 and family courts, the secretary and the commissioner of the department on the activities of the
185 FCRO, including, but not limited to, statistics and analysis of aggregate data from the foster care
186 reviews regarding strengths, issues, policy concerns, and problems which have come to the
187 attention of the FCRO and the executive director from analysis of the aggregate data. The
188 executive director shall make recommendations to address the issues, concerns and problems
189 identified.

190 (b) The reports shall be made public.

191 Section 11. No person employed by or contracted by or volunteering for the FCRO shall
192 be subject to suit directly, derivatively or by way of contribution or indemnification for any civil
193 damages under the laws of the commonwealth resulting from any act or omission performed
194 during or in connection with the discharge of duties within the scope of employment or

195 appointment, unless such act or failure to act was committed with gross negligence, maliciously
196 or in bad faith.

197 SECTION 3. (a) The board of the foster care review office, created under chapter 18D of
198 the General Laws, as inserted by this act, shall meet no later than 90 days of the effective date of
199 this act to initiate the development of a foster care review transition and implementation plan
200 with a timeline. The plan shall be completed no later than 210 days of the effective date of this
201 act.

202 (b) The department of children and families shall assign the Foster Care Review Unit
203 Director and an executive level employee to work with the governing board of the foster care
204 review office on the plan and its implementation.

205 (c) Implementation of the transition plan shall occur no longer than 15 months after the
206 effective date of this act.