

SENATE No. 88

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>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/17/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/8/2021</i>

SENATE No. 88

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 88) of Joanne M. Comerford, Sal N. DiDomenico 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. 29 OF 2019-2020.]

The Commonwealth of Massachusetts

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

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 18C the
4 following chapter:-

5 CHAPTER 18D. FOSTER CARE REVIEW OFFICE.

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”, an 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 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 central record-keeping system for all local panel files, including individual case
47 reviews 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 purpose of permanency planning.

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

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

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

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

69 Section 4. (a) The board shall have a maximum of 15 members and be as geographically
70 diverse as possible. Membership shall include the state’s child advocate or designee, a
71 representative from Friends of Children, a representative of the Children’s League of
72 Massachusetts, a legal representative of the child and family division of the committee for public
73 counsel services, a pediatrician with expertise in the area of adverse childhood experiences, a
74 representative of Citizens for Juvenile Justice, a representative of the Massachusetts Alliance for
75 Families, a representative from a parent advocacy organization, 2 representatives from an adult
76 foster care alumni organization, a representative from Massachusetts commission on LGBTQ
77 youth, a representative of an organization with expertise in racial disproportionality and equity, 1
78 former department staff reviewer, and 2 citizen volunteer reviewers with a minimum of 5 years’
79 experience as a reviewer.

80 (b) The child advocate and Friends of Children representative shall function as co-chairs.

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

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

91 (f) The board shall:

92 (1) recommend a FCRO executive director to be appointed by a majority vote of the
93 governor, attorney general and auditor.

94 (2) hire and fire the executive director for the FCRO;

95 (3) annually set the salary of the executive director; and

96 (4) support and facilitate the work of the FCRO.

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

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

109 Section 5. (a) The FCRO shall designate local panels of citizen reviewers, 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 or family courts
116 shall 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 2 trained citizen
118 reviewers, 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, or young adult's current
122 placement;

123 (2) extent of the parties' compliance with the permanency or action 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 6 months;

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

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

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

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

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

147 Section 7. (a) The FCRO interdisciplinary council shall include commissioner level or
148 designee representation of the department, the office of the child advocate, department of
149 developmental services , department of elementary and secondary education, department of
150 mental health, department of public health, department of transitional assistance , department
151 youth services and the Massachusetts rehabilitation commission . Experts may be invited to the
152 council meetings to address specific concerns or issues, including racial disproportionality,
153 transition age youth, and issues and needs relating to lesbian, gay, bisexual, transgender or queer

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

157 (b) The council shall:

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

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

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

166 (b) The department shall notify the FCRO of a child, youth, or young adult removal from
167 home, placement, change to placement or case closure no later than 2 weeks from the date of the
168 occurrence.

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

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

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

183 (b) The reports shall be made public.

184 Section 11. No person employed by or contracted by or volunteering for the FCRO shall
185 be subject to suit directly, derivatively or by way of contribution or indemnification for any civil
186 damages under the laws of the commonwealth resulting from any act or omission performed
187 during or in connection with the discharge of his/her duties within the scope of employment or
188 appointment, unless such act or failure to act was committed with gross negligence, maliciously
189 or in bad faith.