

HOUSE No. 2115

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

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 protecting children's mental health services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/18/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/26/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/26/2021</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>3/24/2021</i>

HOUSE No. 2115

By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 2115) of Elizabeth A. Malia and others relative to the establishment of a statewide children’s mental health ombudsman program within the Office of the Child Advocate. Mental Health, Substance Use and Recovery.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1736 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act protecting children's mental health services.

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 18C of the General Laws, as appearing in the 2016 Official
2 Edition, is hereby amended in section 1 by inserting following new definition:-

3 “Mental health disorder”, any mental, behavioral or emotional disorder described in the
4 most recent edition of the Diagnostic and Statistical Manual or DSM, which substantially
5 interferes with or substantially limits the functioning and social interactions of a child or
6 adolescent.

7 SECTION 2. Chapter 18C of the General Laws, as so appearing, is hereby further
8 amended in section 2 by striking out, in line 14, the word “and”.

9 SECTION 3. Chapter 18C of the General Laws, as so appearing, is hereby further
10 amended in section 2 by striking out subsection (d) and inserting in place thereof the following
11 subsections:-

12 (d) advise the public and those at the highest levels of state government about how the
13 commonwealth may improve its services to and for children and their families; and

14 (e) oversee the children's mental health ombuds program, as described in sections 14 and
15 15.

16 SECTION 3. Chapter 18C of the General Laws, as so appearing, is hereby further
17 amended by inserting after section 13 the following sections:-

18 Section 14. (a) The child advocate, subject to appropriation or the receipt of federal
19 funds, shall establish a statewide children's mental health ombuds program for the purpose of
20 advocating on behalf of children with mental health disorders, identifying barriers to effective
21 mental health treatment and proposed solutions; monitoring and ensuring compliance with
22 relevant statutes, regulations, rules and policies pertaining to children's behavioral health
23 services; and of receiving, investigating, and resolving through administrative action, as
24 described in subsection (c), complaints filed by a child or by individuals legally authorized to act
25 on behalf of a child or children or by any individual, organization or government agency that has
26 reason to believe that any entity regulated by the commonwealth or government agency has
27 engaged in activities, practices or omissions that constitute violations of applicable court orders,
28 statutes or regulations or that may have an adverse effect upon the health, safety, welfare or
29 rights of children.

30 (bc) The child advocate shall designate a staff person to act as the director of the ombuds
31 program who shall be a person qualified by training and experience to perform the duties of the
32 office. The ombuds shall not be subject to the provisions of sections 8 or 9 of chapter 30. The
33 child advocate, in consultation with the secretary of the executive office of health and human
34 services, the director of the office of medicaid, the commissioner of mental health and the
35 secretary of the department of education, shall establish policies and procedures as needed to
36 facilitate compliance with the provisions of the ombuds program. These policies and procedures
37 shall include procedures for filing complaints, investigating complaints, and taking action to
38 implement resolutions to these complaints, including the use of state agency enforcement
39 authority to resolve complaints as recommended by the ombuds.

40 (cd) Investigations conducted by the ombuds shall be subject to sections 7, 8 and 12 of
41 this chapter.

42 Section 15. To ensure the goals of the ombuds program as described in section 14 are
43 met:

44 (a) the ombuds shall monitor the development and implementation of federal, state and
45 local statutes, regulations and policies regarding services and supports for children with mental
46 health disorders, including the education of these children;

47 (b) the ombuds shall maintain complete records of complaints received, the actions taken,
48 findings, outcomes, and recommendations in response to such complaints and other actions,
49 including those taken by the government and private agency responses to serious complaints;

50 (c) each quarter, the ombuds shall send a report to each government agency about which
51 a complaint or complaints were received by the ombuds during the relevant period, listing the

52 complaints involving that agency which were received during the past quarter, and shall meet
53 regularly with the child advocate, the secretary of the executive office of health and human
54 services, the director of the office of medicaid, the commissioner of mental health and the
55 secretary of the department of education, and shall report on any system-wide problems that the
56 ombuds has identified, and potential solutions; and

57 (d) the child advocate shall report annually, within 120 days of the end of the fiscal year,
58 to the governor, the speaker of the house, the senate president, the joint committee on mental
59 health, substance use and recovery, the joint committee on children, families and persons with
60 disabilities, the joint committee on education, and the house and senate clerks on the activities of
61 the children's mental health ombuds program, including complaints that are relevant to the
62 ombuds, an analysis of patterns in complaints made through the ombuds, and requests for
63 assistance made through the office of patient protection, the department of children and families
64 ombuds and the department of mental health investigations department, and shall make
65 recommendations for legislation, policy or programmatic changes related to the protection of the
66 rights of children with mental health disorders. These reports shall be publicly available and
67 published on the office of the child advocate website.

68 SECTION 6. The child advocate shall promulgate regulations and establish policies and
69 procedures as necessary for performing the required activities of the children's mental health
70 ombuds program.