

**SENATE . . . . . No. 00066**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Karen E. Spilka***

*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 passage of the accompanying bill:

An Act regarding families and children engaged in services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Susan C. Fargo</i>	<i>Third Middlesex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>

# SENATE . . . . . No. 00066

By Ms. Spilka, petition (accompanied by bill, Senate, No. 66) of Karen E. Spilka, Paul J. Donato, James B. Eldridge, Patricia D. Jehlen and other members of the General Court for legislation regarding families and children engaged in services [Joint Committee on Children, Families and Persons with Disabilities].

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ SENATE  
□ , NO. 2329 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
\_\_\_\_\_

An Act regarding families and children engaged in 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 AN ACT REGARDING FAMILIES AND CHILDREN ENGAGED IN SERVICES

2 SECTION 1.

3 Whereas families in the Commonwealth whose children are truant, runaway or acting  
4 in a fashion that interferes with their parent’s ability to adequately care for and protect said  
5 children are families in crisis and often require the assistance of government agencies, including  
6 schools, human service agencies and the courts, as well as non-governmental service providers;  
7 and;

8           Whereas the issues facing said children and families are complex and the services  
9 which would best assist such families are not always available from a single agency or  
10 department of the Commonwealth; and

11           Whereas the collaboration among multiple public and private agencies and offices is  
12 required to ensure that all children and families receive the services they need to succeed; and

13           Whereas services are not consistently available in all communities;

14 Therefore, it shall be the policy of the Commonwealth to develop a flexible, consistent, and  
15 accountable system of community based programs to assist said children and families.

16           SECTION 2. The General Laws as appearing in the 2008 Official Edition are hereby  
17 amended by adding after section 16S of chapter 6A the following new section:

18 Section 16T. Community based services for families and children

19 Intent

20           (a) It is the intent of the General Court to create an accountable, community-based  
21 services network that provides consistent services throughout the Commonwealth to address the  
22 needs of children requiring assistance and their families by providing them with an array of  
23 resources. The goal of said system is to preserve and strengthen families while ensuring the  
24 healthy behavioral, social and educational development of the child and to provide opportunities  
25 to divert children from the juvenile justice and child protection systems. These services shall  
26 focus on creating a stable environment and strengthening the family as a whole while  
27 emphasizing parental responsibility. These services shall also focus on assisting children who are  
28 at risk of dropping out of school.

29 Said community-based services network shall consist of a network of public and private  
30 providers that will provide service coordination, referrals and services in the community as a  
31 timely response to children and families requiring assistance. The system shall include a  
32 mechanism for the collection and analysis of information which will enable the Commonwealth  
33 to evaluate the effectiveness of the network and to identify gaps in services. It is the intent of the  
34 General Court to reserve judicial intervention for those children and families who require  
35 services not available through the community based services network in order to stabilize the  
36 child and family and to achieve resolution of the crisis.

37 Nothing in this act is intended to diminish or interfere with the responsibility of the  
38 commonwealth or municipalities to provide educational services as required by state and federal  
39 law. The creation of said community based service network is subject to appropriation and  
40 services provided shall be limited by the availability of funds and third party reimbursement.

#### 41 Definitions

42 (b) For the purpose of this Section the following words shall have the following  
43 meanings:

44 “Child requiring assistance”, a child between the ages of 6 and 18 who (a) repeatedly runs away  
45 from the home of his parents, legal guardian, or custodian; (b) repeatedly fails to obey the lawful  
46 and reasonable commands of his parents, legal guardian, or custodian, thereby interfering with  
47 said parent’s, legal guardian’s, or custodian’s ability to adequately care for and protect said child;  
48 (c) repeatedly fails to obey the lawful and reasonable regulations of his school; or (d) who is  
49 habitually truant;

50 “Community-based services”, services, including coordination of services, that are designed to  
51 assist families with children requiring assistance so that, where appropriate, such children will be  
52 able to: (a) continue residing with their families in their home communities; (b) continue as  
53 students in their community schools; and (c) enjoy strengthened relationships with their families.

54 “Community Service Agency”, a community-based organization providing services under  
55 contract with the Commonwealth, whose function is to facilitate access to and ensure  
56 coordination of services for families with children with serious emotional disturbance who  
57 require or are already utilizing multiple services, or are involved with multiple child-serving  
58 systems including, but not limited to, the juvenile justice system, department of mental health,  
59 and special education, as agreed upon under the settlement dated August 29, 2006 entered into  
60 by the parties of Rosie D. et al v. Romney civil action No. 01-30199-MAP filed in the United  
61 States District Court.

62 “Family with children requiring assistance”, the parents, guardians, custodian, siblings, and any  
63 other relatives or caretakers who are responsible for a child requiring assistance.

64 “Habitually truant”, a school-aged child not otherwise excused from attendance in accordance  
65 with the lawful and reasonable regulations of his school who fails to attend school for more than  
66 8 school days in a quarter;

67 “Secretary”, the secretary of the Executive Office of Health and Human Services.

68 Creation of the CBS network

69 (c) Subject to appropriation or third party reimbursement, the secretary shall:

70                   (1)           establish a network of child and family service programs  
71 throughout the Commonwealth to provide community-based services to families with children  
72 requiring assistance. The network of community-based services programs shall assist families  
73 so that whenever possible children will be able to continue residing with their families in their  
74 home communities; assist families to enable children to continue as students in their community  
75 schools; strengthen the relationships between children and families; and provide coordinated,  
76 comprehensive, community-based services for children at risk of dropping out of school,  
77 delinquency, or engaging in behaviors which impede the likelihood of their leading healthy,  
78 productive lives. (48 months)

79                   (2)           develop guidelines and standards necessary to achieve and  
80 maintain on a statewide basis a comprehensive and integrated network of community based  
81 services for children and families. (Immediately)

82                   (3)           seek to promote efficiency and access to existing services in  
83 establishing the network by including: organizations that are part of the comprehensive  
84 community-based behavioral health delivery system coordinated by the secretary under section  
85 16S; that provide services or have experience in coordinating access to community-based  
86 services such as Community Service Agencies (CSAs); local schools; other local public  
87 agencies, private organizations, or medical or mental health care providers. (48 months)

88                   (4)           coordinate the purchase of services for the network which may  
89 include outreach, intake, screening, assessment and referral to services. Services offered through  
90 the network shall include, but are not limited to treatment for or assistance with: eligibility  
91 determinations, behavioral, medical, and mental health needs, special education evaluation,

92 remedial education services, assistance with insurance issues, mentoring, family and parent  
93 support, civic engagement and community service, after school and out-of-school opportunities,  
94 residential programs, crisis management and case management. The secretary shall encourage  
95 cooperation among local providers as needed to provide the full complement of services required  
96 under this section. (48 months)

97 (5) monitor and provide technical assistance to providers of  
98 community based services. (36 months – to apply to pilot)

99 (6) require the use of a standard intake screening and assessment tool  
100 to evaluate all families and children seeking community based services which shall identify the  
101 family’s strengths, resources and service needs such as mental health, behavioral health or  
102 substance abuse treatment, basic family shelter, clothing and food needs, child care needs, health  
103 insurance status, legal issues, education placement and child protection. (36 months – to apply to  
104 pilot)

105 (7) create a data collection system for use by programs within the  
106 community based services network which maintains the privacy of clients served, assists  
107 programs and the secretary in addressing the needs of the population to be served, collects  
108 information related to, among other things, the insurance status and benefit coverage of clients  
109 served, income documentation as needed to apply a sliding fee scale for payment or waiver of  
110 payment for services, and other information that may assist the program and the secretary in  
111 providing services, identifying service needs and gaps, and evaluating the effectiveness of  
112 community-based services.(36 months- to apply to pilot)

113 Confidentiality

114 (d) Any documentation of services provided to the family and child through the  
115 network of community based services shall not be public records. Except as otherwise required  
116 by law, including laws related to the reporting of suspected abuse or neglect under section 51A  
117 of chapter 119, statements made by the family and child while receiving services from the  
118 network of community based services shall be treated as confidential and may not be used in  
119 school disciplinary proceedings without the written consent of the person making the statement.  
120 Information about the child and family requiring assistance, including interactions with service  
121 providers and protected health information services, may be shared among providers of  
122 community services providing such services to the child and family as well as with any agency  
123 within the executive office of health and human services providing services to the child as  
124 needed to coordinate treatment and provide appropriate case management. Notwithstanding any  
125 general or special law to the contrary, information about the child and family, including  
126 interactions with service providers and protected health information services, may be shared  
127 among members of the case team as needed to coordinate treatment and provide appropriate case  
128 management, to the extent permitted under applicable federal law, unless the child or family  
129 decline in writing to permit such information sharing.

130 Voluntary nature of services

131 (e) Participation in community based services shall be pursuant to a voluntary  
132 agreement of the parent, legal guardian, or custodian and the child; provided however that  
133 provision of community based services shall be contingent upon parents, legal guardians and  
134 custodians granting consent to allow covered services to be billed to the insurance providers.

135 School referrals during expulsion process



136 (f) Except as provided herein, a school administrator shall refer a child to community-  
137 based services at the same time that the administrator notifies the student and his parent, legal  
138 guardian, or custodian that the student will be expelled for failure to comply with the lawful and  
139 reasonable rules of the school. After providing the process that is due the student, including an  
140 expulsion hearing if requested under section 37H of chapter 71, the school administrator shall  
141 consider the outcome of the community-based services if the student provides that information to  
142 the school. When a school administrator refers a child for habitually truant behavior, it must be  
143 shown that the school, child, and family have completed a department of education certified  
144 truancy program, if such a program is available at the school. Whenever a child or family seeks  
145 assistance from a community-based service network program for habitually truant behavior, the  
146 program staff shall assist the family in gaining access to the child's school's certified truancy  
147 program.

148 DESE certified truancy prevention program

149 SECTION 3. Chapter 69 of the General Laws, as appearing in the 2008 Official  
150 Edition, is hereby amended by adding after section 1N the following new section:-

151 Section 10. The department of elementary and secondary education shall promulgate  
152 regulations establishing a truancy prevention program certification process. The regulations shall  
153 be consistent with the schools and behavioral health framework developed by the department  
154 under section 19 of chapter 321 of the acts of 2008 and shall include requirements that the  
155 truancy prevention program evaluate the level of out-of-school support for students and families,  
156 and address the conditions that may make students more likely to become truant, including

157 previously unidentified special needs, bullying and harassment. School districts shall establish a  
158 truancy prevention program which meets the requirements for certification by the department.

159 Chapter 119 definitions

160 SECTION 4. Section 21 of Chapter 119 of the General Laws, as appearing in the 2008  
161 Official Edition, is hereby amended by striking lines 8 to 16 and inserting in place thereof the  
162 following:-

163 “Child requiring assistance”, a child between the ages of 6 and 18 who (a) repeatedly runs away  
164 from the home of his parents or legal guardian; (b) repeatedly fails to obey the lawful and  
165 reasonable commands of his parents or legal guardian, thereby interfering with said parent’s or  
166 legal guardian’s ability to adequately care for and protect said child; (c) repeatedly fails to obey  
167 the lawful and reasonable regulations of his school; (d) who is a habitual truant;

168 SECTION 5. Section 21 of Chapter 119 of the General Law, as appearing in the 2008  
169 Official Edition, is hereby amended by adding the following definitions:

170 “Family requiring assistance”, the parents, guardians, siblings and any other relatives or  
171 caretakers responsible for a school aged child who needs assistance.;

172 “Habitual truant”, a school-aged child, not otherwise excused from attendance in accordance  
173 with the lawful and reasonable regulations of his school, who willfully fails to attend school for  
174 more than 8 school days in a quarter;

175 SECTION 6. Section 21 of Chapter 119 of the General Laws, as appearing in the 2008  
176 Official Edition, is hereby amended at line 54 by inserting at the end thereof the following  
177 sentence:

178 For purposes of sections 39L through 39Y exclusive the word “Parent”, includes a legal guardian  
179 or other person legally responsible for a child’s care.

180 Court Process

181 SECTION 7. Chapter 119 of the General Laws is hereby amended by striking out sections 39E to  
182 39J, inclusive, and inserting in place thereof the following new sections:

183           Section 39K. Jurisdiction

184           The Juvenile court department has original and exclusive jurisdiction over any  
185 proceeding commenced under section 39M alleging that a family or child requires assistance.

186 The jurisdiction of the Boston juvenile court for the subject matter of this section shall extend to  
187 the territorial limits of Suffolk County.

188           Section 39L. Nature of the Proceedings

189           (a) Proceedings pursuant to sections 39K to 39Y, inclusive, shall not be deemed criminal  
190 proceedings and any record of these proceedings, including the filing of a request for assistance  
191 and creation of a docket, shall not be entered in the criminal offender record information system.

192           (b) Notwithstanding any general or special law to the contrary, no record pertaining to the  
193 child involved in the proceedings shall be maintained or remain active after the request for  
194 assistance is dismissed. The identity and record of any child for which a request for assistance is  
195 filed shall not be submitted to the criminal history systems board, criminal offender record  
196 information system, court activity record index or any other criminal record information system.

197           (c) Proceedings pursuant to sections 39K to 39Y, inclusive, shall be confidential and  
198 not be open to the public.

199 Section 39M. Request for Assistance

200 (a) A proceeding to determine whether or not a child or family requires assistance is  
201 originated by the filing of a request for assistance, stating the petitioner's information and belief :

202 (1) that the child repeatedly runs away from the home of his parents or legal  
203 guardian or repeatedly fails to obey the lawful and reasonable commands of his parents thereby  
204 resulting in said parent's inability to adequately care for and protect said child, or that the child is  
205 habitually truant or repeatedly fails to obey the lawful and reasonable regulations of his school;

206 (2) that the child was under the age of 18 at the time the specified acts took  
207 place;

208 (3) specific acts on which the request for assistance is based and the time and  
209 place they are believed to have occurred;

210 (4) that the child and family require assistance;

211 (5) when the petitioner is a school district, the request for assistance shall  
212 additionally include the following:

213 (i) if the request for assistance states that a child is habitually  
214 truant, a statement of the actions taken by the school district to comply with its obligations under  
215 its truancy prevention program certified pursuant to section 10 of chapter 69 and to improve the  
216 school attendance of the child. The request for assistance shall also state whether or not the child  
217 and his family have participated in the truancy prevention program; and

218 (ii) if the request for assistance states that a child has  
219 repeatedly failed to obey the lawful and reasonable regulations of the school, a statement of the  
220 specific steps taken by the school to improve the child's conduct;

221 (6) when the petitioner is a parent, the request for assistance shall  
222 additionally include documentation that the family was informed of and referred to a  
223 community-based services program under section 16T of chapter 6A.

224 (b) The following persons may originate a proceeding under this section:

225 (1) a police officer, but only if the request states that the child repeatedly  
226 runs away from the home of his parents, legal guardian, or custodian;

227 (2) a parent;

228 (3) a school district, but only if the request states that the child is habitually  
229 truant or repeatedly fails to obey the lawful and reasonable regulations of his school;

230 (c) (1) When a request for assistance is presented to the clerk for filing by a parent  
231 or a police officer, the clerk shall determine whether or not the child and family named in the  
232 petition have received services from a community service program created under section 16T of  
233 chapter 6A. If the child and family have participated in such services, the clerk shall attach to  
234 the petition a statement of the petitioner that identifies the community based services program  
235 that provided assistance. If the child and family have not participated in such services the clerk  
236 shall inform the petitioner that they may delay filing the request for assistance and may chose to  
237 first be referred to the program designated by the secretary of the executive office of health and

238 human services to provide community-based services in the juvenile court district where the  
239 child resides and at a later time return to court and file a request for assistance if needed.

240                   (2)           (i) If the petitioner is a parent, the clerk shall offer to contact the  
241 community-based services provider on the parent's behalf in order to complete a referral to such  
242 services. If the parent declines to be referred to such services, the clerk shall accept the request  
243 for assistance for filing and attach to it the parent's signed statement that the parent does not  
244 wish to be referred to such services and that the parent understands the nature of services  
245 available through the court process, the manner in which those services will be delivered, the  
246 nature of the orders which the court may issue and the possibility of changes in the custody of  
247 the child.

248                                   (ii) If the petitioner is a police officer, the clerk shall offer to  
249 contact the community-based services provider in order to complete a referral to such services.  
250 The clerk may accept a written statement of the reasons for the officer's belief that the referral to  
251 community-based services prior to filing the request for assistance would present a risk of harm  
252 to the child. The clerk shall then (A) immediately contact the designated community-based  
253 services to provide notice that a request for assistance has been prepared for filing, (B) create a  
254 docket for the matter and (C) request that the chief probation officer, or his designee, conduct an  
255 immediate inquiry and report to the clerk, or a judge if the clerk is not available with advice on  
256 how to proceed to obtain assistance for the child. After considering such advice the clerk may  
257 accept the request for assistance for filing.

258                   Section 39N. Notice

259 (a) Except as provided in subsection (b), upon the filing of a request for assistance  
260 pursuant to this section, the court shall cause a copy of the request for assistance and a summons  
261 to be issued, requiring the child and each parent, to appear at the court at a time and place named  
262 to address the request for assistance. Where the safety and wellbeing of the child or other parent  
263 is in danger, only the primary custodial parent shall be required to appear.

264 (b) In proceedings commenced by a parent, the court shall, at the time the request is filed,  
265 notify the parent in writing of the time and place that the request for assistance will be heard to  
266 ensure the parent has a copy of the request for assistance. The court is not required to issue a  
267 summons to either parent in such a case if the parents are living together. If the parents are not  
268 living together, the court shall cause a copy of the request for assistance and a summons to be  
269 issued, requiring the child and the parent who did not initiate the request for assistance to appear  
270 to address the request for assistance at the court at a time and place named, except in cases where  
271 the safety and wellbeing of the child or other parent is in danger, then only the primary custodial  
272 parent shall attend.

273 (c) A copy of the request for assistance served or provided under subsection (a) or (b)  
274 shall be accompanied by a notice that, in the event that the court deems it necessary to place the  
275 child in the care and custody of the department of children and families, said parent may be  
276 named as a respondent in any child support proceeding brought in connection with the child's  
277 care.

278 (d) Unless service of the summons required by this section is waived in writing, such  
279 summons shall be served by a constable or police officer, either by delivering it personally to the  
280 person to whom addressed, or by leaving it with a person of proper age to receive the same, at

281 the place of residence or business of such person, and said constable or police officer shall  
282 immediately make return to the court of the time and manner of service.

283           Section 39O. Determination of probable cause that a child and family require  
284 assistance; Expungement.

285           Whenever a request for assistance is filed, the clerk, or a judge if the clerk is not  
286 available, shall hold a hearing as soon as possible, but not later than 15 days after the creation of  
287 a docket. At that hearing the clerk, or a judge if the clerk is not available, shall receive the  
288 recommendation of the probation officer and receive evidence from the petitioner and the child.  
289 The clerk, or the judge shall determine (i) whether or not there is probable cause for a  
290 determination that a child and family are in need of assistance and (ii) whether it is in the best  
291 interest of the child for the matter to proceed to a fact finding hearing. The clerk or judge shall  
292 then either i) dismiss the request for assistance, or (ii) create a docket for the matter, unless a  
293 docket has already been created under section 39M(b), and refer the child and family to a  
294 probation officer for the preliminary inquiry under section 39R. When a request for assistance is  
295 dismissed under this section, the court shall enter an order directing the expungement of any  
296 records of the claimant maintained by the clerk, the court, the criminal history systems board,  
297 the court activity record index, and the probation department that directly pertain to the this  
298 request for assistance.

299           Section 39P. Scheduling the Fact Finding Hearing

300           At the conclusion of the probable cause hearing required by section 39O, the clerk  
301 shall set a date for a fact finding hearing no more than 90 days from the date the request for  
302 assistance was filed. If at any time prior to the fact finding hearing the parents, child, petitioner



303 and probation officer agree, the fact finding hearing may be postponed for an additional 90 days  
304 after the expiration of the initial 90 day period.

305           Section 39Q. Appointment of Counsel

306           (a) When the request for assistance is filed the child shall be informed that he has a right  
307 to counsel at all hearings. At the time the request for assistance is filed, that court shall ensure  
308 that if said child is not able to retain counsel, the court shall at that time appoint counsel for said  
309 child. The clerk shall cause a copy of the request for assistance and notice of the time and place  
310 of the fact finding hearing to be delivered to counsel at the time of appointment.

311           (b) When the request for assistance is filed, each parent or legal guardian of the child  
312 shall be informed that he has the right to participate as a party in any proceeding under sections  
313 39K to 39Y involving his child and that he has the right to counsel at any hearing or proceeding  
314 regarding custody of his child. If said parent or legal guardian is financially unable to retain  
315 counsel, the court shall appoint counsel for said parent or legal guardian.

316           (c) The court shall determine whether the parent or legal guardian of a child alleged to  
317 require assistance is indigent. If the court determines that the parent or legal guardian is not  
318 indigent, the court shall assess up to a \$1000 fee against the parent or legal guardian to pay for  
319 the cost of counsel appointed for the child. If the parent or legal guardian is determined to be  
320 indigent but is still able to contribute toward the payment of some of said costs, the court shall  
321 order the parent or legal guardian to pay a reasonable amount toward the cost of counsel  
322 appointed for the child.

323           Section 39R. Preliminary Inquiry by Probation

324 (a) When requested by the court or a clerk, the chief probation officer or his designee  
325 shall conduct a preliminary inquiry to determine whether in his opinion the best interests of the  
326 child and family require that crisis intervention services be provided to the child and family.

327 The probation officer in his discretion may:

328 (1) refer the family and child to a community-based services program in the  
329 community where the child resides;

330 (2) confer with the provider of community-based services;

331 (3) refer the child to an appropriate public or private organization or person  
332 for psychiatric, psychological, educational, occupational, medical, dental or social services;

333 (4) conduct conferences with the child, the child's family and the petitioner  
334 for the purpose of effecting adjustments or agreements which are calculated to resolve the  
335 situation which formed the basis of the request for assistance. Information obtained by the  
336 probation officer may be used in the present proceeding but it is otherwise confidential and may  
337 not be used in school disciplinary proceedings or other court proceedings.

338 (b) If the child or his parents fail to participate in good faith with the referrals or  
339 conferences arranged by the probation officer or if the probation officer is not able to refer the  
340 child or his parents to an appropriate public or private organization which is willing and able to  
341 provide appropriate services, the probation officer shall so certify in writing and present these  
342 findings to the court.

343 (c) (1) The commissioner of probation shall establish a system to collect data on  
344 all requests for assistance made and how they are resolved under sections 39K through 39Y.

345 Said system shall maintain the privacy of clients served, assist the court in addressing the needs  
346 of the population to be served and collect information related to: the racial and ethnic identity of  
347 the child; the insurance status and coverage of clients served; the length of time a child is  
348 receiving assistance from a probation officer; the identity of any public or private organization to  
349 whom a probation officer has referred a child or family for services; and any other information  
350 that may assist the commissioner and the court in evaluating the availability and effectiveness of  
351 services for children who are the subjects of requests for assistance pursuant to this section.

352                   (2) The probation officer shall gather information concerning each child and  
353 family referred to the officer which in both substance and format is compatible with and  
354 complementary to the information gathered by programs providing community-based services  
355 pursuant to section 16T of chapter 6A, including but not limited to the insurance status and  
356 coverage and other information that may assist the commissioner of probation and the court in  
357 evaluating the availability and effectiveness of services for children who are the subjects of  
358 requests for assistance pursuant to this section.

359                   (3) The commissioner of probation shall report annually to the child  
360 advocate, the Families and Children Engaged in Services advisory board, the house and senate  
361 committees on ways and means, joint committee on children, families and persons with  
362 disabilities and the joint committee on the judiciary on the assistance provided by probation  
363 officers to children and families under Sections 39K to 39Y. The report shall be filed on October  
364 1 of each year and shall include for each juvenile court district: the number of children and  
365 families receiving assistance; their racial and ethnic identity, as identified by the child and family  
366 members; an analysis of the services provided and an identification of gaps in services available;  
367 the status or resolution of each request for assistance filed in the previous year; and the numbers

368 of children who are the subject of a request for assistance and also charged with a delinquency  
369 matter in the previous year. The report shall exclude information that identifies or allows others  
370 to identify any child or family who is the subject of a request for assistance.

371 Section 39S. Custody, Failure to Appear

372 If, after a hearing at which the child and his parent is represented by counsel, the court  
373 finds that a child alleged to require assistance by reason of repeatedly running away from the  
374 home of his parents or legal guardian or repeatedly failing to obey the lawful and reasonable  
375 commands of his parent, is likely not to appear at the fact finding hearing or at the disposition  
376 hearing, the court may order the child to be released upon such terms and conditions as it  
377 determines to be reasonable or may place the child in the temporary custody of the department of  
378 children and families. Prior to the court granting temporary custody to the department of children  
379 and families, the court must make a written certification and determination that it is contrary to  
380 the welfare of the child to be in his home, and that the department of children and families has  
381 made reasonable efforts to prevent removal of the child from his home or the existing  
382 circumstances indicate that there is an immediate risk of harm or neglect which precludes the  
383 provision of the preventative services as an alternative to removal.

384 An order placing a child with the department under this section shall be valid for no  
385 more than 15 days, upon which the child and his parents, both represented by counsel, must be  
386 brought again before the court for a hearing on whether the order should be continued for another  
387 15 day period. If the court decides to extend the order, it shall note in writing the detailed  
388 reasons for its decision. Orders under this section may be in effect for no more than 45 days  
389 total.

390 A child who is the subject of a request for assistance may not be confined in shackles  
391 or similar restraints or in a court lockup facility in connection with any proceedings pursuant to  
392 Sections 39K through 39Y.

393 Section 39T. Withdrawal of Request for Assistance

394 The petitioner may, withdraw the request for assistance at any time prior to a hearing  
395 to determine the disposition of a request for assistance. A probation officer may at any time  
396 recommend to the court that the request for assistance be dismissed upon a showing that  
397 dismissal is in the best interests of the child.

398 Section 39U. Fact Finding Hearing

399 (a) The court shall hold a fact finding hearing in which it shall receive evidence from the  
400 petitioner, the parent, the child, a representative from the community-based services program, if  
401 involved with the family, and the probation officer. At any hearing held to determine whether a  
402 child and family require assistance, the child and his attorney shall be present and the parents or  
403 legal guardian shall be given an opportunity to be heard. The petitioner who files the request for  
404 assistance shall bear the burden of presenting evidence proving that the child and family require  
405 assistance.

406 (b) Following a fact finding hearing the court shall either:

407 (1) dismiss the request for assistance because the circumstances which led to  
408 the filing of a request for assistance have been resolved or the court finds that the child and  
409 family will not benefit from the assistance being offered;

410 (2) adjourn the hearing for up to 60 days because it finds that the interests of  
411 the child would best be served by continued informal assistance, in which case the court shall,  
412 with the consent of the child and his parent, refer the child to a probation officer or refer the child  
413 and family to the designated community-based services program for additional community-based  
414 assistance; or

415 (3) If the court finds the allegations in the request for assistance have been  
416 proved at the fact finding hearing beyond a reasonable doubt, it may find that the child and  
417 family named in such request for assistance to be a child and family requiring assistance and  
418 schedule a hearing for disposition.

419 (c). No statements made by a child, family member, or by any other person during the  
420 period of inquiries, conferences, or referrals may be admitted at any hearing without the consent  
421 of the child or the family member who made the statement.

#### 422 Section 39V. Disposition Conference and Hearing

423 (a). Upon making a finding that a child requires assistance after a fact finding hearing, the  
424 court shall convene a conference of the probation officer who conducted the preliminary inquiry,  
425 a representative from the community-based services program, if involved with the family, the  
426 petitioner, a representative from the child's school, the child's parent and his attorney, the child  
427 and his attorney, a representative of the department of children and families, if involved with the  
428 family, and any other person who may be helpful in determining the most effective assistance  
429 available to be offered to the child and family. The probation officer shall present written  
430 recommendations and other persons at the conference may present written recommendations to  
431 the court to advise the court on appropriate treatment and services for the child and family,

432 appropriate placement for the child, and appropriate conditions and limitations of such  
433 placement.

434           At the conference and subsequent hearing on disposition, the child and his attorney shall  
435 be present and the parents or legal guardian and the petitioner shall be given an opportunity to be  
436 heard. The court may receive evidence as to the best disposition from all persons who  
437 participate in the conference and any other person who may be helpful in determining an  
438 appropriate disposition.

439           (b). The court shall then conduct a dispositional hearing. The court, taking into  
440 consideration the evidence admitted at the hearing, the report of the probation officer, and the  
441 physical and emotional welfare of the child, may make any of the following orders of  
442 disposition:

443                       (1) subject to any conditions and limitations the court may prescribe,  
444 including: provisions for medical, psychological, psychiatric, educational, occupational and  
445 social services; and for supervision by a court clinic or by any public or private organization  
446 providing counseling or guidance; and for any other services deemed appropriate by the court,  
447 permit the child to remain with his parents;

448                       (2) subject to such conditions and limitations as the court may prescribe,  
449 including, but not limited to provisions for services deemed appropriate by the court, including  
450 but not limited to services described in clause (1), place the child in the care of any of the  
451 following:

452 (i) a relative, or other adult individual who, after inquiry by the  
453 probation officer or other person or agency designated by the court, is found to be qualified to  
454 receive and care for the child; or

455 (ii) a private charitable or childcare agency or other private  
456 organization, licensed or otherwise authorized by law to receive and provide care for such  
457 children;

458 (3) subject to the provisions of sections 32 and 33 and with such conditions  
459 and limitations as the court may recommend, place the child in the custody of the department of  
460 children and families. If the court chooses to place the child in the custody of the department  
461 then at the same time, the court shall consider the provisions of section 29C and shall make the  
462 written certification and determinations required by said section 29C. When the court has placed  
463 a child in the custody of the department, then the department:

464 (i) may not refuse out-of-home placement of a child if the  
465 placement is recommended by the court provided that the court has made the written certification  
466 and determinations required by said section 29C;

467 (ii) may not refuse out of home placement when requested by  
468 the child if there is a substantiated history of abuse or neglect in the home by the parent or legal  
469 guardian or any other person living in the home;

470 (iii) subject to clauses (i) and (ii), shall direct the type and  
471 length of such out-of-home placement;



472 (iv) subject to clauses (i) and (ii), shall give due consideration  
473 to the recommendations of the court. Whenever the department decides not to carry out the  
474 recommendations of the court regarding placement and treatment of the child it shall present the  
475 reasons for its decision and the alternative plan for treatment and placement in writing to the  
476 court.

477 (4) The court may issue an order directing any state agency to provide  
478 particular services to the family and child including but not limited to those services described in  
479 clause (b)(1). If the agency is not able to comply with the order directing services then the  
480 agency shall provide to the court a written statement of the reasons why it is unable to provide  
481 those services. A copy of the statement shall be sent to the house and senate committees on  
482 ways and means and the joint committee on children, families and persons with disabilities and  
483 the office of the child advocate.

484 (5) Where the family or child are directed by the court to participate in  
485 treatment or services which are eligible for coverage by an insurance plan under section 22 of  
486 chapter 32A, section 10F of chapter 118E, section 47B of chapter 175, section 8A of chapter  
487 176A, or section 4A of chapter Ch.176B Sec.4A, payment for such services shall not be denied if  
488 the treatment or services otherwise meet the criteria for health plan coverage.

489 Section 39W. Prohibition on placements with the department of youth services or in  
490 locked facilities

491 (a) Notwithstanding the provisions of subsection (b)2(ii) of section 39V, the court may  
492 not order the child to be placed in the custody of the department of youth services.

493 (b) A child found to require assistance shall not be placed in a locked facility or any  
494 facility designated or operated for juveniles who are alleged to be delinquent or who have been  
495 adjudicated delinquent. However, such child may be placed in a facility which operates as a  
496 group home to provide therapeutic care for juveniles regardless of whether juveniles adjudicated  
497 delinquent are also provided care in such facility.

498 Section 39X. Duration of Assistance

499 (a) Any order of disposition under Section 39V shall continue in force for not more than  
500 120 days; provided, however, that the court which entered the order may, after a hearing, extend  
501 its duration for up to three additional periods, each such period not to exceed 90 days, if the court  
502 finds that the purposes of the order have not been accomplished and that such extension would  
503 be reasonably likely to further those purposes. The child shall have the opportunity to present  
504 evidence and rebut evidence presented at any extension hearing.

505 (b) No order shall continue in effect after the nineteenth birthday of a child named in a  
506 request for assistance.

507 Section 39Y. Custodial Protection

508 (a) (1) A child may be taken into custodial protection for engaging in the  
509 behaviors described in section 39M, only if such child has failed to obey a summons issued  
510 pursuant to section 39N, or if the law enforcement officer initiating limited custody has probable  
511 cause to believe that such child has run away from the home of his parents or legal guardian and  
512 will not respond to a summons.

513 (2) After an officer has taken a child into custodial protection, the officer  
514 shall immediately notify the parent or other person legally responsible for the child's care, or the  
515 person with whom he is domiciled, that he is under the custodial protection of the officer.

516 (3) After making every reasonable effort to give notice under paragraph (2),  
517 the officer shall:

518 (i) release the child to the custody of his or her parent or other  
519 person legally responsible for his or her care upon the written promise, without surety, of the  
520 person to whose custody the child is released that he will bring the child to the court on the next  
521 court date ; or

522 (ii) forthwith and with all reasonable speed take the child directly,  
523 and without first being taken to the police station house, to the program designated to provide  
524 community-based services for the geographic region which constitutes the district of the juvenile  
525 court department within which the child was taken into custodial protection or in which the child  
526 resides; or

527 (iii) release the child to a representative of the department of  
528 children and families, if the law enforcement officer has reason to believe that the child is or has  
529 been in the care or custody of such department; or

530 (iv) take the child directly to the juvenile court in which the act  
531 occasioning the taking into custodial protection occurred, provided that the officer affirms on the  
532 record that he attempted to exercise the options identified in paragraphs (i), (ii), and (iii) of this  
533 subsection, was unable to exercise these options, and the reasons therefore.

534 (4) In the absence of special circumstances, the officer shall release the child  
535 to his parents or other person legally responsible for his care in accordance with paragraph (3)(i).

536 (5) A child may not be securely detained in a police station or town lockup.  
537 At no time shall a child be held in any locked facility.

538 (6) Notwithstanding the foregoing requirements for placement, any such  
539 child who has been taken into custodial protection shall, if necessary, be taken to a medical  
540 facility for treatment or observation.

541 Increasing the age of mandatory school attendance

542 SECTION 8. (36 months) Chapter 741 of the Acts of 1965 is hereby amended by  
543 striking out, in line 3 of the first paragraph, the word “sixteen” and inserting in place thereof the  
544 following word:- eighteen.

545 SECTION 9. (36 months) Chapter 741 of the Acts of 1965 is hereby amended by  
546 striking out, in line 4 of the second paragraph, the word “sixteen” and inserting in place thereof  
547 the following word:- eighteen

548 Restorative Justice – truancy prevention pilot

549 SECTION 10. Subject to appropriation, the department of elementary and secondary  
550 education shall pilot a truancy prevention program using a restorative justice format in at least  
551 one urban high school in the Commonwealth. The program shall include the use of healing  
552 circles which allow family, neighborhood and school community members to be present; a  
553 reparative board, comprised of peers and led by an adult; family group counseling, and mediation  
554 or alternative dispute resolution with the child, family members and school representatives. The

555 program shall be designed to address the underlying causes both in and out of school which led  
556 to truancy. The program shall be consistent with and organized according to the schools and  
557 behavioral health framework developed by the department under section 19 of chapter 321 of the  
558 acts of 2008. The department shall evaluate the effectiveness of the program in preventing  
559 truancy and enhancing the child's academic performance and report the results of that evaluation  
560 to the board of elementary and secondary education, the house and senate committees on ways  
561 and means, joint committee on education and the department of elementary and secondary  
562 education and the child advocate.

563 Runaway pilot

564 SECTION 11. Subject to appropriation, the secretary of the executive office of health  
565 and human services shall pilot a program to address the unique needs of girls who run away from  
566 their parents and legal guardians.

567 Probation Data collection

568 SECTION 12. Within 12 months of the effective date of this act, the Commissioner of  
569 Probation shall submit a report to the Child Advocate, the Families and Children Engaged in  
570 Services advisory board, the house and senate committees on ways and means, joint committee  
571 on children, families and persons with disabilities and the joint committee on the judiciary. The  
572 report shall include for each juvenile court district: the number of children and families  
573 receiving assistance from probation officers; the racial and ethnic identity of the children and  
574 families, as identified by the child and family members; an analysis of the services provided and  
575 an identification of gaps in services available; the status or resolution of each request for  
576 assistance filed under section 39M of chapter 119; the number of children who are the subject of

577 a request for assistance and also charged with a delinquency matter in the previous year; and the  
578 custody status of the child that is subject to the request for assistance, specifying if the child is in  
579 the custody of the department of children and families or committed to the care of the  
580 department of youth services. The report shall exclude information that identifies or allows  
581 others to identify any child or family involved in the juvenile justice system.

582 Advisory board to guide implementation and monitor the new system

583           SECTION 13. (a) There shall be established within the executive office of health and  
584 human services but not subject to the control of said executive office a Families and Children  
585 Requiring Assistance Advisory Board, hereinafter called the advisory board. The advisory board  
586 shall consist of the following members: 4 representatives of the executive office of health and  
587 human services appointed by the secretary, one of whom shall be a representative of the  
588 department of children and families, one of whom shall be a representative of the department of  
589 youth services, one of whom shall be a representative of the department of mental health, one of  
590 whom shall be a representative of the office of Medicaid; the child advocate or her designee; a  
591 representative of the department of elementary and secondary education, appointed by the  
592 commissioner; a juvenile court judge appointed by the chief justice of the juvenile court; a  
593 probation officer assigned to a juvenile court, appointed by the commissioner of probation; 4  
594 members appointed by the Governor, one of whom shall be a district attorney, one of whom shall  
595 be a designee of the committee for public counsel services, one of whom shall be an independent  
596 education advocate, and one who is a parent and is not an employee of the commonwealth; one  
597 member appointed by the Speaker of the House and one member appointed by the President of  
598 the Senate.

599 The secretary of health and human services and the chief justice of the juvenile court shall each  
600 designate one board members to serve as co-chairs. All appointments to the advisory board shall  
601 be made not later than thirty days after the effective date of this section. Any vacancy shall be  
602 filled by the appointing authority. The chairpersons of the board shall schedule the first meeting  
603 of the advisory board, which shall be held not later than sixty days after the effective date of this  
604 section.

605 (b) The advisory board shall (1) monitor the progress being made by the executive  
606 office of health and human services in developing a community based services network under  
607 section 16T of chapter 6A; (2) monitor the progress being made by the probation department in  
608 developing a system to collect data regarding requests for assistance made and how they are  
609 resolved as required by section 39R of chapter 119; (3) monitor the effectiveness of the juvenile  
610 court in providing assistance to children and families who file or are the subjects of requests for  
611 assistance under sections 39K through 39Y of chapter 119; (4) provide advice with respect to  
612 such implementation upon the request of the chief justice of the juvenile court, the commissioner  
613 of probation, the secretary of health and human services or the general court and make  
614 recommendations to the governor annually whether there are sufficient resources and support to  
615 continue with the activities identified in section 16T of chapter 6A and sections 39K through  
616 39Y of chapter 119.

617 (c) The secretary of the executive office of health and human services, the  
618 commissioner of department of elementary and secondary education, the commissioner of  
619 probation, and the chief justice of the juvenile court shall provide to the advisory board periodic  
620 data reports which include information about families and children seeking or referred for  
621 assistance and services provided. Within 12 months of the effective date of this act the advisory

622 board shall submit recommendations to the governor for funding and implementation activities  
623 based on the review of the data submitted.

624 (d) The Families and Children Requiring Assistance Advisory Board shall annually,  
625 not later than January 30th of each year, report in writing to the governor, the child advocate, the  
626 house and senate committees on ways and means, and the joint committees on children and  
627 families and persons with disabilities and on the judiciary on the progress made on the  
628 implementation of section 16T of chapter 6A and sections 39K through 39Y of chapter 119. In  
629 each annual report the advisory board shall report its expectation of progress toward the goals of  
630 section 16T of chapter 6A which will be achieved in the following year. The annual report shall  
631 also contain a recommended budget for the continued implementation activities to be undertaken  
632 in the following year. The board will make a final report on the implementation of section 16T  
633 of chapter 6A and sections 39K through 39Y of chapter 119 together with any recommendations  
634 for legislative and regulatory changes not later than January 30, 2016. The report shall be public.  
635 The board shall terminate following submission of the final report.

636 Timeline

637 SECTION 14. (a) Within 24 months of the effective date of this act, the secretary of  
638 the executive office of health and human services shall, with the advice of the advisory board  
639 established in SECTION 13 of this act, design a model for the delivery of community based  
640 services for children requiring assistance which will augment, be compatible with and integrated  
641 with existing community-based service systems for children, as required by SECTION 2 of this  
642 act. Said model shall include a system to gather data including: demographic information,  
643 insurance status and benefit coverage of clients served, income documentation as needed to



644 apply a sliding fee scale for payment or waiver of payment for services, and other information  
645 that may assist the program and the secretary in providing services and evaluating the  
646 effectiveness of community based services, as required by SECTION 2 of this act. The model  
647 shall allow a child or family to seek assistance from a community-based services agency directly  
648 and without referral. The model shall include procedures for referral to other services whenever  
649 the staff of the agency offering community-based services determines that a family seeking or  
650 referred for services for a child has significant and complex medical needs which cannot be met  
651 by the agency or where the child's behavior presents a significant risk of harm that cannot be  
652 safely managed in the community.

653 (b) The advisory board will review the model design and make recommendations to  
654 the secretary for pilot programs including recommendations of whether there is sufficient  
655 information, workforce, and funding available to prepare and implement a pilot program.

656 (c) Subject to appropriation, within 36 months of the effective date of this act, the  
657 secretary shall pilot a community based service system program in one or more geographic  
658 regions of the commonwealth. The secretary, with the advice and assistance of the advisory  
659 board shall analyze the effectiveness of these pilot sites in order to make necessary changes to  
660 the program design in establishing network of community-based service programs throughout  
661 the commonwealth.

662 (d) Subject to appropriation, within 48 months of the effective date of this act, the  
663 secretary shall establish a network of child and family service programs throughout the  
664 Commonwealth to provide community-based services to families with children requiring  
665 assistance, as required by section 16T of Chapter 16A.