SENATE DOCKET, NO. 345 FILED ON: 1/16/2013

SENATE . . . . . No. 27

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. McGee

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:

An Act relative to children in the care, protection and custody of the Commonwealth..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas M. McGee	*Third Essex*
Paul J. Donato	*35th Middlesex*
Ann-Margaret Ferrante	*5th Essex*
Sal N. DiDomenico	*Middlesex and Suffolk*
Jennifer L. Flanagan	*Worcester and Middlesex*
F. Jay Barrows	*1st Bristol*
Kay Khan	*11th Middlesex*
Danielle W. Gregoire	*4th Middlesex*
Kenneth I. Gordon	*21st Middlesex*
Katherine M. Clark	*Fifth Middlesex*
Thomas M. Stanley	*9th Middlesex*
Carlos Henriquez	*5th Suffolk*
Karen E. Spilka	*Second Middlesex and Norfolk*
Tom Sannicandro	*7th Middlesex*
Theodore C. Speliotis	*13th Essex*
Benjamin Swan	*11th Hampden*
Kate Hogan	*3rd Middlesex*
Brian R. Mannal	*2nd Barnstable*

James B. Eldridge	*Middlesex and Worcester*
Sean Garballey	*23rd Middlesex*
William N. Brownsberger	*Second Suffolk and Middlesex*
Paul R. Heroux	*2nd Bristol*
Antonio F. D. Cabral	*13th Bristol*
Gale D. Candaras	*First Hampden and Hampshire*
Walter F. Timilty	*7th Norfolk*
Matthew A. Beaton	*11th Worcester*
Thomas P. Kennedy	*Second Plymouth and Bristol*
Bruce E. Tarr	*First Essex and Middlesex*

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By Mr. McGee, a petition (accompanied by bill, Senate, No. 27) of Thomas M. McGee, Paul J. Donato, Ann-Margaret Ferrante, Sal N. DiDomenico and other members of the General Court for legislation relative to foster care children. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

An Act relative to children in the care, protection and custody of the Commonwealth..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in its entirety section 215 and inserting in place thereof the following new section: -

"There shall be an interagency child welfare task force, hereinafter called the task force. The secretary of health and human services and the child advocate shall serve as its co-chairs. The task force shall consist of 27 members including: the department of children and families; the department of youth services; the department of transitional assistance; the department of mental health; the department of developmental services; the department of public health; the department of elementary and secondary education; the department of early education and care; the office of medicaid; the department of insurance; the department of public education; the department of economic development; the executive office of labor and workforce development; the department of public safety; the department of housing and community development; the chief justice of the juvenile court; the department of probation; and 6 members appointed by the governor including: 2 parents of youth who were formerly in the care of the commonwealth, 2 youth who were formerly in the care of the commonwealth, 2 direct line social workers selected from a list of 12 applicants selected by the Statewide advisory council, 2 provider agencies who offer services to children in the custody of the department of youth services and 2 provider agencies who offer direct services to children in the care of the department of children and families to include one agency that solely provides foster care.

The task force shall hold monthly meetings and shall work together to establish annual interagency goals to coordinate and streamline services to children and families and shall examine and develop a comprehensive plan to address the following but not limited to: interagency collaboration to increase medical and mental health consultation; the availability of health and behavioral health services to children and families; examine options to strengthen the

25 independence of the office of the child advocate and recommend any legislative changes at the
26 conclusion of the first year; collaboration with law enforcement as it relates to children and
27 families involved with the criminal justice system; the availability of supportive child care for
28 children in the care of the department of children and families; domestic violence awareness
29 programs; children awaiting discharge from psychiatric inpatient units; interagency training
30 initiatives for staff, communities and providers; analyzing and determining a reasonable
31 timeframe, not to exceed 3 years of implementation of this act, to implement a common
32 identifier for all children and families that enter the child welfare system in order to track the
33 recidivism of child abuse and neglect within a family structure while ensuring that
34 confidentiality is upheld; searching out new funding sources from within the commonwealth, the
35 federal government and grant opportunities to provide the following services to children in the
36 foster care system: at least 2 weeks of summer camp, after-school care, participation in school
37 based sports, at least 1 week of school vacation camp, participation in art or musical school
38 based activities and at least 1 week of paid respite care for foster families; evaluate the
39 transportation issues between the education department and the executive office of health and
40 human services that arise with foster children and create a detailed plan to address and cease
41 these issues within 3 years of implementation of this act; and create and implement a detailed
42 plan to provide workforce opportunities in communities and small businesses for children in the
43 care and custody of the commonwealth who are of age to be employed at least part-time through
44 tax incentives, apprenticeships and mentoring opportunities; evaluate the cost of current
45 programs and services offered through multiple agencies that impact the lives of children that are
46 redundant.

47 The task force shall report quarterly to the governor's cabinet on its progress of
48 implementing said interagency goals and plans and shall report annually to the governor, the
49 clerk of the senate, the clerk of the house, and the senate and house committees on ways and
50 means on the activities and progress of the task force including detailed plans to implement said
51 goals and objectives of the task force and any recommendations for funding new funding, the
52 amount of funding needed to implement said goals and plans.".

53 SECTION 2. Section 2 of Chapter 18B of the General Laws, as so appearing, is hereby
54 amended, in line 15, by inserting after the word "activities" the following words:- ", including
55 but not limited to the opportunity for foster children to participate in: school based sports, arts,
56 music or theatre groups or any other extra-curricular school based activity, girl scouts or boy
57 scouts, and socialization activities offered through community-based programs".

58 SECTION 3. Said Section 2 of said Chapter 18B is hereby further amended, in line 24,
59 by inserting after the word "services" the following words:- ", including the opportunity for each
60 child in the foster care system to attend at least 2 weeks of summer camp and at least 1 week of
61 school vacation camp".

62 SECTION 4. Said Section 2 of said Chapter 18B is hereby further amended, in line 31,
63 by striking the word "; and".

64 SECTION 5. Said Section 2 of said Chapter 18B is hereby further amended, in line 33,
65 by striking word:- "." and inserting in place thereof the following:- "; and (18) culturally
66 competent supportive services for pre-adoptive and adoptive families to ensure success of
67 permanency including allowing the continuation of services provided from multiple agencies to
68 occur simultaneously.".

69 SECTION 6. Section 7 of said Chapter 18B, as so appearing is hereby further amended
70 by adding the following 3 subsections:-

71 "(o) The commissioner in consultation with the child advocate and other agencies he
72 deems relevant including but not limited to the Massachusetts District Attorneys Association, the
73 national association of social workers-Massachusetts chapter, the American medical association-
74 Massachusetts chapter, the Massachusetts teachers' association and private child service
75 providers shall create, implement, maintain and update as needed a free, standardized online
76 training program to be completed by all mandated reporters as defined in section 21 of chapter
77 119, and as referenced in section 51A(k) of chapter 119."

78 (p) The commissioner, in consultation with office of the child advocate and the secretary
79 of education, shall develop a statewide plan for the educational stability of children placed in the
80 care or custody of the department of children and families and young adults who have signed
81 voluntary placement agreements with the department of children and families. The plan shall
82 include: (i) a procedure to allow foster children to continue their education for the duration of the
83 academic year in the school they were enrolled in before entering foster care if such placement is
84 determined to be in their best interest; (ii) a process to minimize the loss of learning time due to
85 changing schools during the academic year; (iii) procedures for transferring academic and other
86 records expediently when a foster child is placed in a new schools; (iv) a process for designating
87 foster care education liaisons to facilitate placement, records transfer, calculation of credits
88 earned, and other transition issues for foster children; (v) a process for determining federal,
89 state and local funding sources for transportation of students to their school of origin; (vi) an
90 assurance that children in care attend school on a regular basis as required by law; (vii)
91 recommendations for administration and legislative actions, including but not limited to
92 legislation that requires local school districts to adhere to different residency requirements for
93 relocated foster children; (viii) an assurance that the department of children and families will
94 coordinate with the appropriate local educational authority to identify how children could remain
95 in the educational settings in which the child were enrolled at the time of placement or, if it is
96 determined that it is not in the child's best interest to remain in that setting, the local educational
97 authority shall immediately and appropriately enroll the child in another educational setting
98 during the child's placement and ensure that the child's educational records are transferred to the
99 new educational setting.

100 Not later than 12 months after the effective date of this act, the plan shall be filed with the
101 clerks of the Senate and House of Representatives, the Joint Committee on Children, Families
102 and Persons with Disabilities, the Joint Committee on Education, and the House and Senate
103 Committees on Ways and Means.

104 (q) The commissioner shall work with any state executive office or department as he
105 deems appropriate to establish and implement a series of initiatives, to be completed no later than
106 12 months after the effective date of this act, to achieve section 3(b)(7) of this chapter including,
107 but not limited to, the following areas: (i) creating a standardized form of identification for all
108 foster parents employed by the commonwealth or private agencies; (ii) free admission for foster
109 parents into any department of conservation and recreation park, skating rink, pool, campground
110 or facility; (iii) reimbursement for any trainings required by the commonwealth to execute their
111 duties as foster parents; and (iv) evaluating a scale of state employee benefits to be extend to
112 foster parents.".

113 SECTION 7. Chapter 18C of the General Laws, as so appearing, is hereby amended by
114 inserting after section 4 the following section:-

115 "Section 4 ½. There shall be a child abuse and neglect expert review panel, hereinafter
116 called the panel, under the purview of the child advocate who shall serve as chair. The members
117 of the panel shall include the commissioner of the department of children and families, the
118 executive director of the Children's Trust Fund and 2 members selected by the child advocate to
119 include: a medical expert in the field of pediatrics and a social worker with a minimum of 10
120 years direct case work experience. The panel shall be convened as determined by the child
121 advocate to review the repeated entry of children into the care of the department of children and
122 families. Said repeated entry shall include any open or closed cases within a 12 month period for
123 the same child or the same family unit. The panel shall determine is any actions may be taken to
124 protect the child from further harm or if any agency regulations may be modified. The panel's
125 review and determinations shall be kept confidential. The panel shall report on any trends that
126 are cycling through families, agency service gaps, recommendations for policy changes to rectify
127 the repeated abuse and neglect of children as part of the annual report as established in section 10
128 of this chapter.

129 The child advocate may convene a public meeting or oversight hearing to discuss any
130 trends in child welfare, gather the public's input or determine further actions that shall be taken
131 to improve the lives of the children in the care and custody of the commonwealth. Any findings
132 shall be included in the annual report as established in section 10 of this chapter.".

133 SECTION 8. Section 5 of said Chapter 18C, as so appearing, is hereby amended in line 2
134 by striking the word "may" and inserting in place thereof the word:- "shall".

135 SECTION 9. Said Section 5 of said Chapter 18C, as so appearing, is hereby further
136 amended in line 3 by striking the word "may" and inserting in place thereof the word:- "shall".

137 SECTION 10. Said Section 5 of said Chapter 18C, as so appearing, is hereby further
138 amended in line 9 by striking the word “and”.

139 SECTION 11. Said Section 5 of said Chapter 18C, as so appearing, is hereby further
140 amended by striking in line 10:- “.” and inserting in place thereof the following:- “; and (4) the
141 findings from the investigation shall be public and reported to the clerk of the senate and the
142 clerk of the house. Furthermore, the child advocate shall work in coordination with the state
143 child fatality review team to conduct his own investigation in the death of any child whose was
144 in the care or custody of the commonwealth using the guidelines outlined in this section.”.

145 SECTION 12. Section 2DDDD of Chapter 29 of the General Laws, as so appearing, is
146 hereby amended at the end thereof by adding the following clause:- “; and (11) summer
147 enrichment programs for youth in the care and custody of the commonwealth to prevent school
148 dropout and encourage new creative thinking and engagement in fields vital to the
149 commonwealth’s economic growth.”.

150 SECTION 13. Section 2 of Chapter 71B of the General Laws, as so appearing, is hereby
151 amended at the end thereof by adding the following paragraph:-

152 “The department of children and families and the department of elementary and
153 secondary education shall establish procedures (i) to allow foster children to continue their
154 education for the duration of the academic year in the school they were enrolled in before
155 entering foster care if such placement is determined to be in their best interest; (ii) to minimize
156 the loss of learning time due to changing schools during the academic year; (iii) for transferring
157 academic and other records expediently when a foster child is placed in a new school. Academic
158 and other records shall include an individualized education plan and shall be transferable
159 immediately to any other licensed school and school district within the commonwealth. Unless a
160 child’s Individualized Education Plan is subject to reevaluation in pursuant to this section.”.

161 SECTION 14. Section 7 of Chapter 76 of the General Laws, as so appearing, is hereby
162 amended at the end thereof by adding the following paragraph:-

163 “Any school age child placed in foster care or group care outside of their home town shall
164 have their school records transferred within 2 business days to ensure the continuation of said
165 child’s learning. Any absences said child endures due to a school transfer, court appearance or
166 any meeting regarding their foster care status shall not be counted against said child in any
167 matter of graduation or in any child requiring assistance application.”.

168 SECTION 15. Section 2 of Chapter 111G of the General Laws, as so appearing, is hereby
169 amended at the end thereof by adding the following paragraph:-

170 “The department, in consultation with the commissioner of children and families and the
171 division, shall review and revise the early intervention operational standards to ensure that

172 children under the age of three who have an open protective case with the department of children
173 and families be deemed categorically eligible for early intervention services.”.

174 SECTION 16. Section 23(b) of Chapter 119 of the General Laws, as so appearing, is
175 hereby amended, in line 83, by inserting after the word “develop” the following words:-
176 “statewide, universal practices,”.

177 SECTION 17. Said Section 23(b) of Chapter 119, as so appearing, is hereby further
178 amended, in line 84, by inserting after the word “The” the following words:- “statewide,
179 universal practices,”.

180 SECTION 18. Section 23(7) of said Chapter 119, as so appearing, is hereby amended by
181 inserting after subsection (i) the following 4 subsections:-

182 “(j) The department, in consultation with the area boards created in section 13 of chapter
183 18B and the statewide advisory council created in section 16 of chapter 18B, shall create an age
184 appropriate, culturally appropriate, life-skills curriculum for children in the foster care system.
185 Said curriculum shall begin for children age 11 and continue through age 18 and shall include,
186 but is not limited to, the following areas: interpersonal skill; completing household duties;
187 running a home; grocery shopping; opening a bank account; interviewing for jobs and or college;
188 filling out job application; and managing bills. Said curriculum shall be approved by the
189 secretary of health and human services and the child advocate and shall include a timeframe for
190 implementation and cost analysis of implementation within 3 years of approval of this act.

191 (k) Each child who is age 7 or older shall be given a meaningful opportunity to
192 participate in the development of the case plan and to state his or her preference(s) for initial and
193 any subsequent placement or custody. The department shall ask any child who is age 7 or older
194 to provide the names of any kin or other adults with whom the child has a relationship. Further,
195 the department shall ask any child who is 7 or older, in private, to state his or her preference(s)
196 for initial and any subsequent placement or custody.

197 Each parent shall also be asked to provide the name of kin or other adult with whom the
198 child or the family has a relationship who could serve as a potential placement for the child. Each
199 parent shall also be given a meaningful opportunity to participate in the development of the case
200 plan and to state his or her preference(s) for initial and any subsequent placement or custody of
201 his or her child.

202 If the department has or is seeking custody of a child, the department shall first
203 investigate the possibility of placing the child in accordance with the placement preferences of
204 the child and/or parent(s).The department shall complete that investigation before placing the
205 child and make placement changes as appropriate based on the outcome of that investigation.
206 Specific reasons for placement decisions must be documented in writing in the case file,
207 including the reasons for rejecting placements identified by the child and/or parent(s).

208 (l) Each child shall have one of their social workers present at any placement planning
209 meeting, interview, attorney meeting or any other meeting pertaining to the future living
210 standards or placement of said child. Each child shall also have the right to be actively involved
211 in the development of their permanency plan and shall be given every opportunity to ask
212 questions and offer input as to the outcome of their permanency plan and shall fully understand
213 the decisions being made and the options offered to them during the permanency planning
214 process.

215 (m) Each child shall have obtained for them by the department, a free credit report,
216 pursuant to the fair credit reporting act, from each of the 3 major credit bureaus at the time of
217 entry or re-entry into care and annually thereafter, for the time that said child remains in custody
218 of the Commonwealth, to determine whether identity theft has occurred and to correct all
219 erroneous entries on said child's credit record. If the credit report displays other negative or
220 erroneous items, the Commonwealth shall provide the necessary services to correct said child's
221 credit record, including, but not limited to, legal and other advocacy fees.

222 The department shall: (i) provide the child's attorney with a copy of each credit report
223 within 30 days of obtaining the credit report results; (ii) work with the child's attorney to notify
224 the district attorney, for the district in which the child resides, no later than 30 days after receipt
225 of the credit report in order to correct any erroneous items; and (iii) make each annual credit
226 report request not later than 60 days after the child's birthday, or 60 days after the child's entry
227 or re-entry into custody.".

228 SECTION 19. Section 24 of said Chapter 119, as so appearing is amended at the end
229 thereof by inserting the following paragraph:-

230 "No child entering the foster care system through a substantiated report of section 51A of
231 this chapter shall receive a probation officer to investigate them, their foster home setting or the
232 claims in the 51A report. The identity and record of any child that enters the foster care system
233 through a substantiated 51A report, shall not be submitted to the criminal history system board,
234 criminal offender record information system, court activity record index or any other criminal
235 record information system and any child whose name has been entered into these court systems
236 shall have their records expunged.".

237 SECTION 20. Said Chapter 119 is hereby further amended by striking out Section
238 51A(k), as so appearing, and inserting in place thereof the following section:-

239 "(k) A mandated reporter shall successfully complete by July 1, 2015, and every three
240 years thereafter, the training referenced in section 2(e) of chapter 18C, to recognize and report
241 suspected child abuse and neglect. Beginning on July 1, 2015, any mandated reporter who
242 applies for or renews a professional license shall provide evidence of successful completion of
243 said training.".

244 SECTION 21. Section 51B(c) of said Chapter 119, as so appearing, is hereby further
245 amended, at the end of line 32, by inserting the following words:-

246 "No child placed in immediate temporary custody shall receive a probation officer to
247 investigate the child, their foster home setting or the claims of a 51A report. The identity and
248 record of any child shall not be submitted to the criminal history system board, criminal offender
249 record information system, court activity record index or any other criminal record information
250 system and any child whose name has been entered into these court systems shall have their
251 records expunged.".

252 SECTION 22. Said Chapter 119 is hereby further amended by striking out Section
253 51B(g), as so appearing, and inserting in place thereof the following subsection:-

254 "(g) The department shall offer appropriate services to the family of any child which it
255 has reasonable cause to believe is suffering from any of the conditions described in the report to
256 prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family
257 life whenever possible. If the family declines or is unable to accept or to participate in the offered
258 services, the department or any person may file a care and protection petition under section 24.

259 Each family assessment and service plan must document the involvement of the parents
260 or guardians and children age 7 or older, including children in the custody of the department and
261 their siblings or half-siblings and children placed by a court in the custody or under the
262 guardianship of a relative or other suitable person, in the development of the plan. Such efforts
263 must include, but are not limited to: (a) Encouraging the parents or guardian and the children to
264 participate in the development and review of the plan and attempting to obtain the parents' or
265 guardian's signatures documenting their review of the plan (b) obtaining information through
266 separate and private conversations from the child and the parents about potential kin or other
267 adults with whom the child or the family has a relationship who could serve as a placement for
268 the child and (c) If either the parents or child is not involved in the development of the plan, the
269 reasons must be documented.".

270 SECTION 23. Section 3 of Chapter 210, as so appearing is hereby amended by inserting
271 the following subsection after the last paragraph:-

272 "(e) A child who has not been adopted within two years after an order is entered
273 terminating parental rights under this chapter or chapter 119, for whom the court has determined
274 after a hearing under section 29B of chapter 119 that adoption is no longer the permanency plan,
275 and who is at least 12 years of age may petition the court to reinstate in full the parental rights of
276 one or both of the child's former parents. The child shall sign the petition in the absence of a
277 showing of good cause as to why the child could not do so. The court shall order that an
278 evidentiary hearing be held and give notice of the hearing to the child's former parent or parents
279 as prescribed in section 24 of chapter 119. The court shall grant the petition if it determines by a
280 preponderance of evidence that reinstatement of parental rights is in the child's best interests.

281 The court shall specify in writing the factual basis for its determination. If the court grants the
282 petition, any prior order dispensing with the need for the parent to receive notice of or to consent
283 to the adoption, guardianship, or custody of, or other disposition regarding, that child shall be
284 deemed vacated.”.

285 SECTION 24. The department of children and families shall create and pilot a
286 mentoring/life-coach program for children in the custody of the department to encourage and
287 create life-long connections for every child aging out of the department’s care. The department
288 shall work with private and non-profit organizations that have shown a proven track record of
289 creating such a bond for children.

290 SECTION 25. The secretary of health and human services shall work with the secretary
291 of labor and workforce development to create individual savings accounts for each youth, age 15
292 and above, who are in the custody of the commonwealth and develop a percentage scale of
293 annual deposit requirements based the child’s supplemental security income and age of the child
294 with a larger percentage being deposited as the child ages. Said plan shall include a provision to
295 allow each child to retain the balance of their personal account upon release or aging out of the
296 care and custody of the commonwealth.

297 SECTION 26. Section 23 of this act applies regardless of the whether the two year
298 requirement is met before, on, or after the effective date of this act.