HOUSE DOCKET, NO. 2867 FILED ON: 1/16/2015

HOUSE . . . . . No. 76

The Commonwealth of Massachusetts

PRESENTED BY:

Nick Collins

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Nick Collins	*4th Suffolk*
Ann-Margaret Ferrante	*5th Essex*
Benjamin Swan	*11th Hampden*
Cory Atkins	*14th Middlesex*
David M. Nangle	*17th Middlesex*
Marjorie C. Decker	*25th Middlesex*
Paul J. Donato	*35th Middlesex*
Danielle W. Gregoire	*4th Middlesex*
James J. Dwyer	*30th Middlesex*
Denise Provost	*27th Middlesex*
David M. Rogers	*24th Middlesex*
Tom Sannicandro	*7th Middlesex*
James B. Eldridge	*Middlesex and Worcester*
James J. O'Day	*14th Worcester*
Kay Khan	*11th Middlesex*
Paul R. Heroux	*2nd Bristol*
James Arciero	*2nd Middlesex*
Steven Ultrino	*33rd Middlesex*

Stephen L. DiNatale	*3rd Worcester*
Jonathan Hecht	*29th Middlesex*
Peter V. Kocot	*1st Hampshire*
Thomas A. Golden, Jr.	*16th Middlesex*
Antonio F. D. Cabral	*13th Bristol*
Chris Walsh	*6th Middlesex*
Jennifer E. Benson	*37th Middlesex*
Paul McMurtry	*11th Norfolk*

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HOUSE . . . . . No. 76

By Mr. Collins of Boston, a petition (accompanied by bill, House, No. 76) of Nick Collins and others for legislation to enhance opportunities for children in the custody of the Commonwealth. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *85* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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, section 215 and inserting in place thereof the following section:-

There shall be an interagency child welfare task force, hereinafter referred to as the task force. The task force shall consist of 28 members or agencies including: the secretary of health and human services and the child advocate, who shall serve as co-chairs; 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 division of insurance; the; the executive office of housing and economic development; the executive office of labor and

11 workforce development; the department of public safety; the department of housing and
12 community development; the chief justice of the juvenile court; the department of probation; and
13 6 members appointed by the governor including: 2 parents of youth who were formerly in the
14 care of the commonwealth, 2 youth who were formerly in the care of the commonwealth, 2 direct
15 line social workers selected from a list of 12 applicants selected by the Statewide advisory
16 council; 2 provider agencies who offer direct services to children in the custody of the
17 department of youth services and 2 provider agencies who offer direct services to children in the
18 care of the department of children and families, one of which must solely provide foster care.

19 The task force shall hold monthly meetings and shall work collaboratively to
20 establish annual interagency goals to coordinate and streamline services to children and families
21 and shall examine and develop a comprehensive plan to address, at minimum, the following:
22 interagency collaboration to increase medical and mental health consultation; the availability of
23 health and behavioral health services to children and families; examine options to strengthen the
24 independence of the office of the child advocate and recommend any legislative changes at the
25 conclusion of the first year; collaboration with law enforcement as it relates to children and
26 families involved with the criminal justice system; the availability of supportive child care for
27 children in the care of the department of children and families; domestic violence awareness
28 programs; children awaiting discharge from psychiatric inpatient units; interagency training
29 initiatives for staff, communities and providers; analyzing and determining a reasonable
30 timeframe, not to exceed 3 years of implementation of this act, to implement a common
31 identifier for all children and families that enter the child welfare system in order to track the
32 recidivism of child abuse and neglect within a family structure while ensuring that
33 confidentiality is upheld; searching out new funding sources from within the commonwealth, the

34 federal government and grant opportunities to provide the following services to children in the
35 foster care system: at least 2 weeks of summer camp, after-school care, participation in school-
36 based sports, at least 1 week of school vacation camp, participation in art or musical school-
37 based activities and at least 1 week of paid respite care for foster families; evaluate the
38 transportation issues between the department of education and the executive office of health and
39 human services that arise with foster children and create a detailed plan to address and cease
40 these issues within 3 years of implementation of this act; create and implement a detailed plan to
41 provide workforce opportunities in communities and small businesses for children in the care
42 and custody of the commonwealth who are of age to be employed at least part-time through tax
43 incentives, apprenticeships and mentoring opportunities; and evaluate the cost of current
44 redundant programs and services offered through multiple agencies that impact the lives of
45 children.

46 The task force shall report quarterly to the governor's cabinet on its progress of
47 implementing the interagency goals and plans. The task force shall also report annually to the
48 governor, the clerks of the house of representatives and the senate, the house and senate
49 committees on ways and means, and the joint committee on children, families and persons with
50 disabilities on the activities and progress of the task force including detailed plans to implement
51 the goals and objectives of the task force and any recommendations for new funding and the
52 amount of funding needed to implement the goals and plans of the task force.

53 SECTION 2. Section 2 of chapter 18B of the General Laws, as so appearing, is
54 hereby amended by inserting after the word "activities", in line 15, the following words:- ",
55 including, but not limited to, the opportunity for foster children to participate in: school based

56 sports, arts, music or theater groups or any other extra-curricular school based activity, girl
57 scouts or boy scouts, and socialization activities offered through community-based programs".

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

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

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

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

71 "(o) The commissioner, in consultation with the child advocate and other
72 agencies the commissioner deems relevant, including, but not limited to, the Massachusetts
73 District Attorneys Association, the Massachusetts chapter of the National Association of Social
74 Workers, the Massachusetts Medical Society, the Massachusetts Teachers' Association and
75 private child service providers shall, if available, adapt, implement and maintain from another
76 state agency or from any suitable program already in use in another state a free standardized
77 online training program to be completed by all mandated reporters as defined in section 21 of

78 chapter 119, and as referenced in section 51A(k) of chapter 119; provided, however, that if the
79 commissioner cannot find an existing program to adapt to this purpose, then the commissioner
80 shall create, implement, maintain and update such an online training program.

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

100 enroll the child in another educational setting during the child's placement and ensure that the
101 child's educational records are transferred to the new educational setting.

102 Not later than 12 months after the effective date of this act, the plan shall be filed
103 with the clerks of the house of representatives and senate; the joint committee on children,
104 families and persons with disabilities; the joint committee on education; and the house and senate
105 committees on ways and means.

106 (q) The commissioner shall work with any state executive office or department
107 the commissioner deems appropriate to establish and implement a series of initiatives, to be
108 completed no later than 12 months after the effective date of this act, to achieve paragraph (7) of
109 subsection (b) of section 3 of chapter 18B including, but not limited to, the following areas: (i)
110 creating a standardized form of identification for all foster parents employed by the
111 commonwealth or private agencies; (ii) free admission for foster parents into any department of
112 conservation and recreation park, skating rink, pool, campground or facility; (iii) reimbursement
113 for any trainings required by the commonwealth to execute their duties as foster parents; and (iv)
114 evaluating a scale of employee or fringe benefits currently offered to state employees to be
115 extended to foster parents.”.

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

118 “Section 4A. There shall be a child abuse and neglect expert review panel,
119 hereinafter referred to as the panel, under the purview of the child advocate, who shall serve as
120 chair. The members of the panel shall include: the commissioner of the department of children
121 and families, the executive director of the Children’s Trust Fund, and 2 members selected by the

122 child advocate to include: a medical expert in the field of pediatrics and a social worker with a
123 minimum of 10 years direct case work experience. The panel shall review the repeated entry of
124 children into the care of the department of children and families. Any open or closed cases
125 within a 12 month period for the same child or the same family unit shall constitute repeated
126 entry. The panel shall determine if any actions can be taken to protect the child from further
127 harm or if any agency regulations should be modified. The panel's review and determinations
128 shall be kept confidential. The panel shall report on any trends that are cycling through families,
129 agency service gaps, and recommendations for policy changes to rectify the repeated abuse and
130 neglect of children as part of the annual report as established in section 10 of this chapter.

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

136 SECTION 8. Section 5 of said chapter 18C, as so appearing, is hereby amended
137 by Inserting at the end of subsection (a) the following sentence:- The child advocate must
138 conduct an investigation of a sampling of at least 15% of all critical incidents reported from an
139 executive agency.

140 SECTION 9. Section 2DDDD of chapter 29 of the General Laws, as so
141 appearing, is hereby amended by striking, in the final clause, the word "and"; and further
142 amended, at the end thereof, by inserting the following clause:- "; and (11) summer enrichment
143 programs for youth in the care and custody of the commonwealth to prevent school dropout and

144 encourage new creative thinking and engagement in fields vital to the commonwealth's
145 economic growth.".

146 SECTION 10. Section 2 of chapter 71B of the General Laws, as so appearing, is
147 hereby amended by inserting at the end thereof the following paragraph:-

148 "The department of children and families and the department of elementary and
149 secondary education shall establish procedures (i) to allow foster children to continue their
150 education in the school they were enrolled in before entering foster care if such placement is
151 determined to be in their best interest; (ii) to minimize the loss of learning time due to changing
152 schools; and (iii) for transferring academic and other records expediently when a foster child is
153 placed in a new school. Academic and other records shall include an individualized education
154 program and shall be transferable immediately to any other licensed school and school district
155 within the commonwealth, unless a child's individualized education program is subject to
156 reevaluation in pursuant to this section. If a child's individualized education program is subject
157 to reevaluation, the individualized education program from the child's school of origin shall
158 remain in effect to the extent possible until reevaluation occurs".

159 SECTION 11. Section 7 of chapter 76 of the General Laws, as so appearing, is
160 hereby amended by inserting at the end thereof the following paragraph:-

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

166 SECTION 12. Said section 7 of chapter 76, as so appearing, is hereby further amended
167 by inserting at the end thereof the following paragraph:-

168 "Notwithstanding section 5 of this chapter, any school age child removed from the home
169 of the child's parents or guardians under chapter 119, sections 23, 24, 25, 26, 39G or 39H and
170 placed in the custody of the department of children and families or another custodian, may
171 continue to attend the school in which the child was enrolled at the time of removal ("the school
172 of origin"). The right to attend the school of origin shall apply to any subsequent placement. If
173 the child's custodian determines, in consultation with the child and the child's school, that it is
174 not in the best interest of the child to remain in the school of origin, the child shall be
175 immediately and appropriately enrolled in the new school. The child's custodian shall promptly
176 notify the child's attorney and the school of origin of the decision. Where the child's custodian is
177 the department of children and families, and the department determines that it is in the child's
178 best interest to enroll the child in a school in the district in which the child is placed, the
179 department shall provide the child's attorney with written notice of the decision. This notice shall
180 identify the factors that form the basis of the decision. Nothing in this section shall be construed
181 to detract from any other right that a child may have under any other law.

182 SECTION 13. Section 2 of chapter 111G of the General Laws, as so appearing,
183 is hereby amended by inserting at the end thereof the following paragraph:-

184 "The department, in consultation with the commissioner of children and families
185 and the division, shall, review and revise the early intervention operational standards to ensure
186 that children under the age of 3, who have an open protective case with the department of
187 children and families, be deemed categorically eligible for early intervention services.".

188 SECTION 14. Paragraph (7) of subsection (a) of section 23 of said chapter 119,
189 as so appearing, is hereby amended by inserting after clause (i) the following 4 subsections:-

190 "(j) The department, in consultation with the area boards created in section 13 of
191 chapter 18B and the statewide advisory council created in section 16 of chapter 18B, shall create
192 an age-appropriate, culturally-appropriate, life-skills curriculum for children in the foster care
193 system. The curriculum shall begin for children age 11 and continue through age 18 and shall
194 include, but not be limited to, the following areas: interpersonal skills; completing household
195 duties; running a home; grocery shopping; opening a bank account; interviewing for jobs and/or
196 college; filling out job applications; managing bills; and financial literacy education. The
197 curriculum shall be approved by the secretary of health and human services and shall include a
198 timeframe and cost analysis of implementation within 3 years of implementation of this act.

199 (k) Each child, age 7 or older, shall be given a meaningful opportunity to
200 participate in the development of the case plan and to state the child's preference(s) for initial
201 and any subsequent placement or custody. The department shall ask any child, age 7 or older, to
202 provide the names of any kin or other adults with whom the child has a relationship. Further, the
203 department shall ask any child, age 7 or older, in private, to state the child's preference(s) for
204 initial and any subsequent placement or custody.

205 Each parent shall also be asked to provide the name of kin or other adult with
206 whom the child or the family has a relationship who could serve as a potential placement for the
207 child. Each parent shall also be given a meaningful opportunity to participate in the development
208 of the case plan and to state the parent's preference(s) for initial and any subsequent placement
209 or custody of the child.

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

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

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

229 (m) The department shall ensure that the placement of a child in foster care takes into
230 account the appropriateness of the current educational setting and the proximity to the school in
231 which the child is enrolled at the time of each placement; coordinate with the appropriate local

232 educational agencies to ensure that the child remains in the school which the child is enrolled in
233 at the time of each placement; or, if remaining in such school is not in the best interests of the
234 child, ensure that the child is immediately and appropriately enrolled in a new school and that all
235 of the child's educational records have been provided to the school.

236 SECTION 15. Said chapter 119 is hereby further amended by striking out
237 subsection (k) of section 51A, as so appearing, and inserting in place thereof the following
238 paragraph:-

239 "(k) A mandated reporter shall successfully complete the training referenced in
240 section 2(e) of chapter 18C by July 1, 2017, and every three years thereafter to recognize and
241 report suspected child abuse and neglect. Beginning on July 1, 2017, any mandated reporter who
242 applies for or renews a professional license shall provide evidence of successful completion of
243 this training.". Successful completion of this training may be used towards continuing education
244 unit requirements..

245 SECTION 16. Said chapter 119 is hereby further amended by striking out
246 subsection (g) of section 51B, as so appearing, and inserting in place thereof the following
247 subsection:-

248 "(g) Each family assessment and service plan must document the involvement of
249 the parents or guardians and children age 7 or older, including children in the custody of the
250 department and their siblings or half-siblings and children placed by a court in the custody or
251 under the guardianship of a relative or other suitable person, in the development of the plan.
252 Such efforts shall include, but not be limited to: (a) encourage the parents or guardian and the
253 children to participate in the development and review of the plan and attempting to obtain the

254 parents' or guardian's signatures documenting their review of the plan; (b) obtain information
255 through separate and private conversations from the child and the parents about potential kin or
256 other adults with whom the child or the family has a relationship who could serve as a placement
257 for the child; and (c) if either the parents or child is not involved in the development of the plan,
258 the reasons shall be documented.".

259 SECTION 17. Section 3 of chapter 210 of the General Laws, as most recently
260 amended by chapter 93 of the acts of 2011, is hereby amended by inserting at the end thereof the
261 following paragraph:-

262 "(e) If at least two years have passed since the court entered an order under this
263 chapter or chapter 119 terminating parental rights, the child whose parents were the subject of
264 that order may file a motion requesting that the court vacate the order with respect to one or both
265 of the child's former parents, but only if all of the following apply:

266 i. The child is at least 12 years of age;

267 ii. The court has determined after a hearing under section 29B of chapter 119 that
268 adoption is no longer the permanency plan for the child; and

269 iii. Either the child has not been adopted or, if the child has been adopted, a court has
270 entered an order terminating the parental rights of the child's adoptive parents or the adoptive
271 parents have voluntarily surrendered their parental rights.

272 The child shall sign the motion in the absence of a showing of good cause as to why the
273 child could not do so. The court shall order that an evidentiary hearing be held and give notice of
274 the hearing to whichever of the child's former parents the motion relates, with notice being

275 provided in the manner prescribed for a petition filed under section 24. Neither parent shall be
276 considered a party for the purpose of the motion, nor shall either have an independent right to be
277 heard, though a parent's testimony may be offered into evidence if the parent is called as a
278 witness by a party. The court shall grant the motion if it determines by a preponderance of
279 evidence that vacating the order terminating parental rights is in the child's best interests. The
280 court shall specify in writing the factual basis for its determination. As soon as practicable after
281 granting the motion, the court shall enter a new dispositional order under section 26(b), provided
282 that the order is in the best interests of the child. For purposes of this paragraph, the term "child"
283 includes a young adult as defined in section 21 of chapter 119.

284 SECTION 18. The department of children and families shall create a pilot -
285 mentoring/life-coach program for children in the custody of the department to encourage and
286 create life-long connections for every child aging out of the department's care and custody. The
287 department shall work with private and non-profit organizations that have a proven track record
288 of creating such a bond for children.

289 SECTION 19. The secretary of the executive office of health and human
290 services shall work with the secretary of the executive office of labor and workforce
291 development to create individual savings accounts for each youth, age 15 and older, who are in
292 the custody of the department and develop a percentage scale of annual deposit requirements
293 based the child's supplemental security income and age of the child with a larger percentage
294 being deposited as the child ages. Each child for which an individual savings account is created
295 shall be allowed to retain the balance of the child's personal account upon release or upon aging
296 out of the custody of the commonwealth.

297 SECTION 20. Section 17 of this act shall apply regardless of whether the two

298 year requirement is met before, on, or after the effective date of this act.