

SENATE No. 2329

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

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 SECTION 1. The General Laws as appearing in the 2006 official edition are hereby
2 amended by adding after chapter 6A section 16G the following new section:

3 Section 16H. Community-based services for families and children

4 1. Whereas families in the Commonwealth whose children are truant, runaway and acting
5 in a fashion that interferes with their parent’s ability to adequately care for and protect said
6 children are families in crisis; and

7 Whereas the issues facing said children and families are complex and the services which
8 would best assist such families are not always available from a single agency or department of
9 the Commonwealth and the collaboration among multiple public and private agencies and offices
10 is required to ensure that all children and families receive the services they need to succeed; and

11 Whereas the current efforts to help said children and families lack accountability and
12 consistency; 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,
15 and accountable system of community-based programs to assist said children and families.

16 2. It is the intent of the General Court to create an accountable, community-based system
17 that provides consistent services throughout the Commonwealth to address the needs of families
18 and children in crisis by providing them with an array of resources. The goal of said system is to
19 preserve and strengthen families while ensuring the healthy behavioral, social and educational
20 development of the child. These services shall focus on creating a stable environment and
21 strengthening the family as a whole while emphasizing parental responsibility. These services
22 shall also focus on assisting children who are at risk of dropping out of school. Nothing in this
23 act is intended to abrogate the responsibility of the education system to provide educational
24 services as required by state and federal law.

25 Said community-based system shall provide the family and child with immediate
26 responses for the stabilization of the family, as well as to connect the family to additional
27 services in the community through referrals and advocacy. The services provided to the families
28 and children involved shall be provided on a continuum of increasing intensity with the goal of
29 keeping the child out of the juvenile justice and child protection systems. The system shall
30 include a mechanism for the collection and analysis of information which will enable the
31 Commonwealth to evaluate the effectiveness of services and to identify gaps in services. It is the
32 intent of the General Court to reserve judicial intervention for those children and families who
33 require services beyond said community-based services in order to achieve stabilization and
34 resolution.

35 3. For the purpose of this Section the following words shall have the following
36 meanings: ‘Child requiring assistance’: a child between the ages of 6 and 18 who repeatedly runs
37 away from the home of his parents, legal guardian, or custodian or repeatedly fails to obey the
38 lawful and reasonable commands of his parents, legal guardian, or custodian, thereby interfering
39 with said parent’s, legal guardian’s, or custodian’s ability to adequately care for and protect said
40 child or repeatedly fails to obey the lawful and reasonable regulations of his school or who is
41 habitually truant;

42 “Community-based services”: services, including coordination of services, that are
43 designed to assist families with children requiring assistance so that, where appropriate, such
44 children will be able to: continue residing with their families in their home communities;
45 continue as students in their community schools; strengthen relationships with their families.

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

54 ‘Family with children requiring assistance’: the parents, guardians, custodian, siblings,
55 and any other relatives or caretakers responsible for a child between the ages of 6 and 18 who
56 need assistance from state, local, or private agencies, or providers of social, educational health,

57 mental health, or behavioral health services in order to adequately care for and protect the child;

58 'Habitually truant': a school-aged child not otherwise excused from attendance in
59 accordance with the lawful and reasonable regulations of his school who fails to attend school
60 for more than 8 school days in a quarter;

61 'Secretary': the secretary of the Executive Office of Health and Human Services.

62 4. (a) Subject to appropriation or availability of third party reimbursement, the secretary
63 shall:

64 (i) develop a model for delivery of community-based services to families with
65 children requiring assistance which shall form a basis of a network of child and family service
66 programs developed in this section. The purpose of the network of community-based services
67 program shall be to assist families so that children will be able to continue residing with their
68 families in their home communities; assist families to enable children to continue as students in
69 their community schools; strengthen the relationships between children and families; and provide
70 coordinated, comprehensive, community-based services for children at risk of dropping out of
71 school, delinquency, or engaging in behaviors which impede the likelihood of their leading
72 healthy, productive lives. The secretary may enter into contracts with the Community Service
73 Agencies (CSAs), local schools, other local public agencies, private organizations, or medical or
74 mental health care providers who shall act as community-based service centers, to implement the
75 network and provide services which are within their capacity. The community-based service
76 centers shall be encouraged to subcontract with other local providers as needed to provide the
77 full complement of services required under this section.

78 (ii) make grants for the coordination of community-based services which may include
79 outreach, intake, screening, assessment and referral. In awarding the grants, the secretary shall
80 seek to promote efficiency and access to existing services. Grants may be awarded to existing
81 networks of community-based services. Referrals may be provided for services, including but not
82 limited to: eligibility determination, behavioral health, medical, counseling, safety, education,
83 learning disabilities, employment, mentoring, family and parent support, civic engagement and
84 community service, after school and out-of-school opportunities, residential programs, non-
85 residential programs, crisis management and case management.

86 (iii) pilot alternative systems to address the problem of children running away from
87 their parents, legal guardians, or custodians. Two grants shall be awarded for runaway treatment
88 and prevention programs, one in an urban location and one in a rural location. Grants may award
89 funding for up to five years subject to demonstration of effectiveness and the submission of
90 annual reports to the secretary;

91 (iv) develop standards necessary to achieve and maintain on a statewide basis
92 comprehensive and integrated community-based services for children and families;

93 (v) monitor and provide technical assistance to providers of community-based
94 services;

95 (vi) adopt a standard intake screening and assessment tool to evaluate all families and
96 children seeking community-based services which identifies the family's strengths, resources,
97 and service needs such as mental health, behavioral health, or substance abuse treatment, basic
98 family shelter, clothing and food needs, child care needs, health insurance status, legal issues,
99 education placement, and child protection;

100 (vii) create a data collection system for use by programs within the network of child
101 and family service programs developed pursuant to this section which maintains the privacy of
102 clients served, assists programs and the executive office of health and human services in
103 addressing the needs of the population to be served, collects information related to, among other
104 things, the insurance status and benefit coverage of clients served, income documentation as
105 needed to apply a sliding fee scale for payment or waiver of payment for services, and other
106 information that may assist the program and the secretary in providing services, identifying
107 service needs and gaps, and evaluating the effectiveness of community-based services.

108 (viii) establish a network of child and family service programs throughout the
109 commonwealth to provide community-based services to families with children requiring
110 assistance.

111 (b) The secretary shall issue requests for proposals for the provision of community-based
112 services. Proposals must demonstrate expertise in assisting children and families who are at risk
113 of contact with the juvenile justice system or the child protection system and program staffing
114 which meets the credentialing and caseload criteria as defined by the secretary. Proposals shall
115 also require that applicants submit:

116 A plan for development, implementation and coordination of services as required under
117 this section for families from public and private providers;.

118 (ii) A plan for the establishment of a local advisory board which, shall focus on the needs
119 of families and children at risk of involvement in the juvenile justice system and the child
120 protection system. The advisory board shall include: representatives from school districts, police
121 officers, juvenile probation officers, district attorneys, attorneys who represent children and

122 parents, mental health clinicians, behavioral health providers, parents and youth. The advisory
123 board may also include local religious organizations, representatives of local businesses, higher
124 education, social service agencies, public health agencies and other persons with experience in
125 assisting youth and families in crisis. Membership shall be broadly representative of the racial
126 ethnic and economic diversity of the community. The local advisory boards may, where
127 necessary to facilitate work in communities, create similarly constituted work groups for each
128 municipality in the service area;

129 (iii) Periodic evaluation of the success in achieving program goals and a process for
130 making adaptations and improvements based on evaluation information.

131 5. (a) Community-based services shall be available to children between the ages of 6 and
132 18 who are habitually truant or children between the ages of 6 and 18 who run away from the
133 home of their parents, legal guardian, or custodian or refuse to obey the lawful rules of their
134 parents, legal guardian, or custodian or repeatedly fail to obey school rules and to families whose
135 children engage in such behaviors.

136 (b) Whenever the staff of the program offering community-based services determines that
137 a family seeking or referred for services for a child has significant and complex medical needs
138 which cannot be met by the program or where the child's behavior presents a significant risk of
139 harm to the child himself, the family or the community, the child and family shall be referred to
140 other services pursuant to subsection 4 of this section.

141 (c) Where a youth has been charged with a delinquency offense or is an adjudicated
142 delinquent, eligibility for participation in community-based services shall be determined by the
143 program administrator after a review of the facts surrounding the alleged offense by a team

144 consisting of: a community-based services caseworker, probation officer, family members and
145 the counsel representing the child in the delinquency matter.

146 (d) Where the child is in the custody of the department of children and families and
147 residing in an out-of-home placement, eligibility for participation in community-based services
148 shall be determined by the program administrator after a review of the facts surrounding the
149 placement by a team consisting of the community-based services caseworker, the department of
150 children and families caseworker, a responsible adult with whom the child has an ongoing
151 connection, and if the custody is based on an order in any proceeding under chapter 119, any
152 counsel representing the child in that proceeding.

153 (e) Where a child or family is denied access to community-based services for reasons
154 other than those described in this section, the program shall provide the child and his parent,
155 legal guardian, or custodian a written explanation of reasons for exclusion and the identification
156 of other community-based services and resources available to them.

157 (f) When a child or family is denied services pursuant to this section, the program shall
158 contact the child and his parent, legal guardian, or custodian in person or by telephone within
159 two weeks after the denial decision to determine if the other appropriate services have been
160 obtained and whether or not community-based services are now appropriate. The program shall
161 provide to the child and his parent, legal guardian, or custodian a notice in a form acceptable to
162 the juvenile court stating that the family is not eligible for community-based services and listing
163 the reasons for ineligibility.

164 6. (a) A child or family may seek assistance from a community-based services program
165 directly and without referral.

166 (b) Employees of the departments of children and families or youth services may make
167 referrals to Community-Based Service Centers as part of a case plan.

168 (c) Voluntary referrals to community based services may be made by any professional
169 who is working with the family or child(ren).

170 (d) Except as provided herein, a school administrator shall refer a child to community-
171 based services at the same time that the administrator notifies the student and his parent, legal
172 guardian, or custodian that the student will be expelled for failure to comply with the lawful and
173 reasonable rules of the school. After providing the process that is due the student, including an
174 expulsion hearing if requested, the school administrator shall consider the outcome of the
175 community based service center referral if the student provides that information to the school..
176 Provided that when a school administrator refers a child for habitually truant behavior, it must be
177 shown that the school, child, and family have completed a department of education certified
178 truancy program, if such a program is available at the school. Whenever a child or family seeks
179 assistance for habitually truant behavior, the program staff shall assist the family in gaining
180 access to the child's school's department of education certified truancy program.

181 7. Community-based services shall include, but are not limited to:

182 (i) program representatives available to respond to requests for service 24 hours a
183 day, 7 days a week;

184 (ii) initial response to referral or request for services by a family or child and
185 stabilization of any crisis presented within a reasonable time, not to exceed 24 hours, so as to
186 assure the safety and well being of the child and family;

187 assessment and screening of each person requesting services and, if possible, all family
188 members residing in the household using the standard intake tool as established by the secretary
189 pursuant to paragraph 4(a)(vi);

190 assignment of a case manager to each family upon assessment;

191 creation of a family service plan, which includes but is not limited to: strength-based
192 assessment and statement of family needs presented; services and treatment to be provided by the
193 community-based services program or to which the family and child will be referred that address
194 the identified needs, assistance with obtaining special education evaluation and services,
195 assistance with insurance coverage issues, and timeframes for achieving the plan objectives. The
196 service plan shall be reviewed and agreed upon by the family before implementation;

197 data collection in a format which protects the privacy of the individuals seeking services
198 and permits the evaluation of the effectiveness of the program;

199 compilation and dissemination to the general public of information about family support
200 resources and services available in the community;

201 crisis intervention residential placements for children for up to 72 hours;

202 voluntary respite residential placement of the child for up to 21 days; and

203 mediation or alternative dispute resolution, including restorative justice programs.

204 8. (a) Participation in community-based services shall be pursuant to a voluntary
205 agreement of the parent, legal guardian, or custodian and the child. Families or children may
206 terminate their involvement at any time.

207 (b) Services may be provided for 120 days. After the initial 120 day period families or
208 children and the community-based services program case manager may agree to extend services
209 for up to an additional 90 days.

210 (c) Covered services shall be billed to the insurance provider for the client.

211 (d) The program shall advise the parents, legal guardian, or custodian that they may be
212 responsible for co-payments for covered services and for contributing to the cost of non-covered
213 services for the child or family. Allowable rates for services not covered by insurance, including
214 the portion for which parents will be held responsible, shall be set by the secretary and
215 periodically adjusted as needed to meet actual costs.

216 (e) In the absence of the consent of a parent, legal guardian, or custodian, respite care
217 may be provided to a child pursuant to the provisions and subject to the limitations of chapter
218 119 section 23 paragraph 7.

219 9. (a) Each family shall have a case manager and a case staffing team. The case staffing
220 team shall include, but is not limited to, the primary providers of the services to the child and
221 family, the case manager and a representative of the child's school district.

222 (b) (i) The case manager shall be responsible for working with the family to
223 develop a family service plan, agreed upon by the family and the case manager, that outlines the
224 delivery of services. The family service plan shall be reviewed if there is cause to believe
225 the continuation of services is no longer appropriate because the child has complex medical
226 needs which cannot be met by the program or the child's behavior presents a significant risk of
227 harm to the child himself, the family or the community. The case manager, the family and child

228 shall periodically review the progress towards achieving the objectives of the plan and may make
229 adjustments to the plan if necessary.

230 (ii) The case staffing team shall work with the family to address barriers that may
231 prevent the family and child from participating in and benefiting from services, ensure the
232 continued progress of the family service plan and shall address any issue that may be preventing
233 the family from continuing to participate in and benefit from services. The case staffing team
234 shall periodically review the family service plan with the family and may make
235 recommendations for additional services.

236 (c) The case manager, case staffing team, family and child may, upon reviewing the
237 progress towards achieving the objectives of the plan, terminate the case as indicated by
238 successful or substantial achievement of the objectives of the plan. The parent, legal guardian,
239 custodian or child who is over the age of 16 or any other member of the case staffing team may
240 make a written request that the case manager convenes a resolution meeting at any time if the
241 member finds that doing so is in the best interest of the family or child.

242 10. (a) Not more than 110 days after the assessment and screening of a child and family
243 referred to or requesting community-based services, or 10 days prior to any extension of services
244 granted under paragraphs c and d of this section, the case manager shall convene a resolution
245 meeting with the case staffing team to assess whether the goals of the family service plan have
246 been achieved or if further services are in the best interest of the family and child. After the
247 meeting the case manager shall document the resolution of the case as follows:

248 (i) that the family and or child will benefit from additional community-based
249 services; or

250 (ii) that it is unlikely the family and child will benefit from additional community-
251 based services at this time and the case is discharged; or

252 (iii) that the family failed to cooperate with the service plan and the case is discharged;
253 or

254 (iv) that the public or private agencies designated in the plan to provide specific
255 services did not provide those services and the case is discharged; or

256 (v) that the presenting behaviors are resolved and the case is discharged.

257 (b) Within 7 days after meeting, the case manager shall provide the parent, legal
258 guardian, or custodian with a written report that details the reasons for the decisions made at the
259 resolution meeting. The report shall contain a notice in a form acceptable to the juvenile court
260 stating that community-based services have concluded and whether or not the case manager
261 believes it is likely that the child and family would benefit from further services.

262 (c) If the family, child and case manager agree to extend services, then the services shall
263 be extended for an additional 90 days.

264 (d) If the family was referred to community-based services by a court or a probation
265 officer, then services may be extended for additional 90 day periods at the agreement of the
266 court or probation officer and the family.

267 11. (a) The report and any documentation of services provided to the family and child
268 shall not be public records. Statements made by the family and child while receiving services
269 from the program shall be treated as confidential. Such statements may not be used in school

270 disciplinary proceedings or in any court proceeding without the written consent of the person
271 making the statement.

272 (b) Any person offering community-based services to children under this program shall
273 be required to report suspected physical or emotional abuse or neglect of a child pursuant to
274 General Laws Chapter 119 Section 51A.

275 (c) Notwithstanding any provision to the contrary, in the absence of specific written
276 directive from the child and or member of the family who is receiving service, information about
277 the case, including interactions with service providers and protected health information services,
278 may be shared among members of the case team as needed to coordinate treatment and provide
279 appropriate case management.

280 12. There shall be an advisory council appointed by the secretary, which shall advise the
281 secretary on creation, operation, and effectiveness of the community-based services
282 program. Members shall include the commissioners or their designees of the departments of
283 public health, mental health, developmental services, children and families, youth services,
284 transitional assistance, elementary and secondary education, early education and care, and public
285 safety, the child advocate, the director of the office of Medicaid or his designee, the
286 commissioner of probation or his designee, the chief justice of the juvenile court or his designee,
287 a district attorney, members of the bar who represent children in juvenile court proceedings, a
288 designee of the committee for public counsel services, an education advocate, representatives of
289 urban, suburban, and rural municipal police departments and school districts, providers of
290 service to children and families, parents, and at least 2 young adults who have participated in a
291 community-based services program.

292 13. The secretary shall report annually on February 1 to the joint committee on children,
293 families and persons with disabilities and the house and senate committees on ways and means
294 and the child advocate on the progress of the community-based services program.

295 SECTION 2: Chapter 69 of the General Laws is hereby amended by adding after section
296 1N the following new section:

297 Section 1O. Within three years of the effective date of this act, the department shall
298 establish a discretionary grant program to assist schools in planning and implementing truancy
299 preventions programs which meet the certification requirements established pursuant to section
300 1P of Chapter 69.

301 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section
302 1O the following new section:

303 Section 1P. The Department of Education shall promulgate regulations establishing a
304 truancy prevention program certification process. The regulations shall include requirements that
305 the truancy prevention program evaluate the level of out-of-school support for students and
306 families, and address the conditions that may make students more likely to become truant,
307 including previously unidentified special needs, bullying and harassment. School districts shall
308 establish a truancy prevention program which meets the requirements for certification by the
309 department.

310 SECTION 4: Chapter 119 of the General Laws is hereby amended by repealing Sections
311 39E to 39J, inclusive, and adding the following new sections:

312 Section 39K. Definitions

313 “Child requiring assistance”, a child below the age of eighteen who repeatedly runs away
314 from the home of his parents or legal guardian, or repeatedly fails to obey the lawful and
315 reasonable commands of his parents or legal guardian, thereby interfering with said parent’s or
316 legal guardian’s ability to adequately care for and protect said child, or repeatedly fails to obey
317 the lawful and reasonable regulations of his school, or who is a habitually truant;

318 “Family requiring assistance”, the parents, guardians, siblings and any other relatives or
319 caretakers responsible for a child between the ages of 6 and 18 who need assistance from state,
320 local, or private agencies or providers of social, educational, health, mental health, or behavioral
321 health services in order to adequately care for and protect the child;

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

325 “Parent”, includes a legal guardian or other person legally responsible for a child’s care.

326 Section 39L. Jurisdiction

327 The Juvenile court department has original and exclusive jurisdiction over any
328 proceeding commenced under section 39N alleging that a family or child requires assistance. The
329 jurisdiction of the Boston juvenile court for the subject matter of this section shall extend to the
330 territorial limits of Suffolk county.

331 Section 39M. Nature of the Proceedings

332 1. Proceedings pursuant to sections 39K to 39X, inclusive, shall not be deemed criminal
333 proceedings and any record of these proceedings, including the filing of a request for assistance

334 and creation of a docket, shall not be entered in the Criminal Offender Record Information
335 System.

336 2. Notwithstanding any general or special law to the contrary, no record pertaining to the
337 child involved in the proceedings shall be maintained or remain active after the request for
338 assistance is dismissed. The identity and record of any child for which a request for assistance is
339 filed shall not be submitted to the criminal history systems board, criminal offender record
340 information system, court activity record index or any other criminal record information system.

341 3. Proceedings pursuant to sections 39K to 39X, inclusive, shall be confidential and not
342 be open to the public.

343 Section 39N. Request for Assistance

344 1. A proceeding to determine whether or not a child or family requires assistance is
345 originated by the filing of a request for assistance, stating the petitioner's information and belief:

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

350 (b) that the child was under the age of 18 at the time the specified acts took place,

351 (c) specific acts on which the request for assistance is based and the time and place they
352 are believed to have occurred;

353 (d) when the petitioner is a school district, the request for assistance shall also include:

354 if the request for assistance states that a child is habitually truant, a statement of the
355 actions taken by the school district to comply with its obligations under its truancy prevention
356 program certified pursuant to chapter 69, section 1O and to improve the school attendance of the
357 child. The request for assistance shall also state whether or not the child and his family have
358 participated in the truancy prevention program.; and

359 if the request for assistance states that a child has repeatedly failed to obey the lawful and
360 reasonable regulations of the school, a statement of the specific steps taken by the school to
361 improve the child's conduct.

362 (e) when the petitioner is a parent, whether they have applied for or received services
363 from a community-based services program under Section 16H of chapter 6A; and

364 (f) that the child and family require assistance.

365 2. The following persons may originate a proceeding under this section:

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

368 (b) a parent;

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

371 3. (a) When a request for assistance is presented to the clerk for filing by a parent or a
372 police officer, the clerk shall determine whether or not the child and family named in the petition
373 have received services from a community service program created under section 16H of chapter
374 6A. If the child and family have participated in such services, the clerk shall attach to the

375 petition the notice of conclusion of community-based services as provided for in chapter 6A,
376 section 16H(11)(b) or notice of ineligibility as provided for in chapter 6A, section 16H(6)(f). If
377 the child and family have not participated in such services the clerk shall provide to the petitioner
378 the option of referring the child and family to the program designated by the secretary of the
379 executive office of health and human services to provide community-based services in the
380 juvenile court district where the child resides.

381 (b)(1) If the petitioner is a parent, the clerk shall offer to contact the community-based
382 services provider on the parent's behalf in order to complete a referral to such services. If the
383 parent declines to be referred to such services, the clerk shall attach to the request for assistance
384 the parent's signed statement that the parent does not wish to be referred to such services and
385 that the parent understands the nature of services available through the court process, the manner
386 in which those services will be delivered, the nature of the orders which the court may issue and
387 the possibility of changes in custody of the child. The clerk may accept the request of assistance
388 for filing if said documents are attached.

389 (2) If the petitioner is a police officer, the clerk shall offer to contact the community-based
390 services provider in order to complete a referral to such services. The clerk may accept a written
391 statement of the reasons for the officer's belief that the referral to community-based services
392 prior to filing the request for assistance would present a risk of harm to the child. The clerk shall
393 then i) immediately contact the designated community-based services to provide notice that a
394 request for assistance has been prepared for filing, ii) create a docket for the matter and iii)
395 request that the chief probation officer, or his designee, conduct an immediate inquiry and report
396 to the clerk, or a judge if the clerk is not available with advice on how to proceed to obtain

397 assistance for the child. After considering such advice the clerk may accept the request for
398 assistance for filing.

399 Section 39O Notice

400 1. Except as provided in subsection 2, on the filing of a request for assistance pursuant to
401 this section, the court shall cause a copy of the request for assistance and a summons to be
402 issued, requiring the child and each parent to appear at the court at a time and place named to
403 address the request for assistance

404 2. In proceedings commenced by a parent, the court shall, at the time the request is
405 filed, notify the parent in writing of the time and place that the request for assistance will be heard
406 to ensure the parent has a copy of the request for assistance. The court is not required to issue a
407 summons to either parent in such a case if the parents are living together. If the parents are not
408 living together, the court shall cause a copy of the request for assistance and a summons to be
409 issued, requiring the child and the parent who did not initiate the request for assistance to appear
410 to address the request for assistance at the court at a time and place named..

411 3. A copy of the request for assistance served or provided under subsection 1 or 2 shall be
412 accompanied by a notice that, in the event that the court deems it necessary to place the child in
413 the care and custody of the department of children and families, said parent may be named as a
414 respondent in any child support proceeding brought in connection with the child's care

415 4. Unless service of the summons required by this section is waived in writing, such
416 summons shall be served by a constable or police officer, either by delivering it personally to the
417 person to whom addressed, or by leaving it with a person of proper age to receive the same, at

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

420 Section 39O ½ Determination of probable cause that a child and family requires
421 assistance; expungement.

422 Whenever a request for assistance is filed, the clerk, or a judge if the clerk is not
423 available, shall hold a hearing as soon as possible, but not later than 15 days after the creation of
424 a docket. At that hearing the clerk, or a judge if the clerk is not available, shall receive the
425 recommendation of the probation officer and receive evidence from the petitioner and the child.
426 The clerk, or the judge shall determine i) whether or not there is probable cause for a
427 determination that a child and family are in need of assistance and ii) whether it is in the best
428 interest of the child for the matter to proceed to a fact finding hearing. The clerk or judge shall
429 then either i) dismiss the request for assistance, or ii) refer the child and family to a probation
430 officer for the preliminary inquiry under section 39R. When a request for assistance is dismissed
431 under this section, the court shall enter an order directing the expungement of any records of the
432 claimant maintained by the clerk, the court, the criminal history systems board, the court activity
433 record index, and the probation department that directly pertain to the this request for assistance.

434 Section 39P Scheduling the Fact Finding Hearing

435 At the conclusion of the probable cause hearing required by section 39O1/2, the clerk
436 shall set a date for a fact finding hearing no more than 90 days from the date the request for
437 assistance was filed. If at any time prior to the fact finding hearing the parents, child, petitioner
438 and probation officer agree, the fact finding hearing may be postponed for an additional 90 days
439 after the expiration of the initial 90 day period.

440 Section 39Q Appointment of Counsel

441 1. When the request for assistance is filed the child shall be informed that he has a right
442 to counsel at all hearings. At the time the request for assistance is filed, that court shall ensure
443 that if said child is not able to retain counsel, the court shall appoint counsel for said child. The
444 court shall appoint counsel for the child at the time the request for assistance is filed. The clerk
445 shall cause a copy of the request for assistance and notice of the time and place of the fact
446 finding hearing to be delivered to counsel at the time of appointment.

447 2. When the request for assistance is filed, each parent or legal guardian of the child shall
448 be informed that he has the right to participate as a party in any proceeding under sections 39K to
449 39X involving his child and that he has the right to counsel at any hearing or proceeding
450 regarding custody of his child. If said parent or legal guardian is financially unable to retain
451 counsel, the court shall appoint counsel for said parent or legal guardian.

452 3. The court shall determine whether the parent or legal guardian of a child alleged to
453 require assistance is indigent. If the court determines that the parent or legal guardian is not
454 indigent, the court shall assess up to a \$1000 fee against the parent or legal guardian to pay for
455 the cost of counsel appointed for the child. If the parent or legal guardian is determined to be
456 indigent but is still able to contribute toward the payment of some of said costs, the court shall
457 order the parent or legal guardian to pay a reasonable amount toward the cost of counsel
458 appointed for the child.

459 Section 39R Preliminary Inquiry by Probation

460 1. When requested by the court or a clerk the chief probation officer or his designee shall
461 conduct a preliminary inquiry to determine whether in his opinion the best interests of the child
462 and family require that crisis intervention services be provided to the child and family.

463 The probation officer in his discretion may:

464 (a) refer the family and child to a community-based services program in the community
465 where the child resides; the probation officer may confer with the provider of community-based
466 services to resolve the situation which formed the basis of the request for assistance;

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

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

474 (d) if the child or his parents fail to participate in good faith with the referrals or
475 conferences arranged by the probation officer or if the probation officer is not able to refer the
476 child or his parents to an appropriate public or private organization which is willing and able to
477 provide appropriate services, the probation officer shall so certify in writing and present these
478 findings to the court.

479 2. (a) The probation officer shall gather information concerning the child and family
480 which in both substance and format is compatible with and complementary to the information

481 gathered by programs providing community-based services pursuant to section 16H of chapter
482 6A, including but not limited to the insurance status and coverage and other information that may
483 assist the commissioner of probation and the court in evaluating the availability and effectiveness
484 of services for children who are the subjects of requests for assistance pursuant to this section.

485 (b) The commissioner of probation shall establish a system to collect data regarding
486 requests for assistance made and how they are resolved under sections 39K through 39X. Said
487 system shall maintain the privacy of clients served, assist the court in addressing the needs of the
488 population to be served, collect information related to, among other things the racial and ethnic
489 identity of the child, the insurance status and coverage of clients served, the length of time a
490 child is receiving assistance from a probation officer, the identity of any public or private
491 organization to whom a probation officer has referred a child or family for services; and other
492 information that may assist the commissioner and the court in evaluating the availability and
493 effectiveness of services for children who are the subjects of requests for assistance pursuant to
494 this section.

495 (c) The Commissioner of Probation shall report annually to the Child Advocate, the
496 house and senate committees on ways and means, joint committee on children, families and
497 persons with disabilities and the joint committee on the judiciary on the assistance provided by
498 probation officers to children and families under Sections 39K to 39X. The report shall be filed
499 on October 1 of each year and shall include for each juvenile court district: the number of
500 children and families receiving assistance, their racial and ethnic identity, as identified by the
501 child and family members, an analysis of the services provided and an identification of gaps in
502 services available, the status or resolution of each request for assistance filed in the previous
503 year, and the numbers of children who are the subject of a request for assistance and also charged

504 with a delinquency matter in the previous year. The report shall exclude information that
505 identifies or allows others to identify any child or family who is the subject of a request for
506 assistance.

507 3. Conferences and referrals arranged under this section may extend for a period not to
508 exceed 120 days from the date that the request for assistance was filed, unless the parent, child
509 and petitioner voluntarily agree in writing to a continuation of such conferences or referrals for
510 an additional period not to exceed 90 days from the expiration of the original period. Upon the
511 expiration of the initial 90 day period, or of such additional 90 day period, the request for
512 assistance may be dismissed and the child and his parents discharged from any further obligation
513 to participate in such conferences and referrals, or a fact finding hearing shall be held.

514 Section 39S Custody, Failure to Appear

515 If, after a hearing at which the child is represented by counsel, the court finds that a child
516 alleged to require assistance by reason of repeatedly failing to obey the lawful and reasonable
517 commands of his parent is likely not to appear at the fact finding hearing or at the disposition
518 hearing, the court may order the child to be released upon such terms and conditions as it
519 determines to be reasonable or may place the child in the temporary custody of the department of
520 children and families. Prior to the court granting temporary custody to the department of children
521 and families, the court must make a written certification and determination that it is contrary to
522 the welfare of the child to be in his home, and that the department of children and families has
523 made reasonable efforts to prevent removal of the child from his home or the existing
524 circumstances indicate that there is an immediate risk of harm or neglect which precludes the
525 provision of the preventative services as an alternative removal.

526 An order placing a child with the department under this Section shall be valid for no more
527 than 15 days without the child being brought again before the court for a hearing on whether the
528 order should be continued for another 15 day period. If the court decides to extend the order, it
529 shall note in writing the detailed reasons for its decision. An order under this section may be in
530 effect for no more than 45 days total.

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

534 Section 39T Withdrawal of Request for Assistance

535 The petitioners may, withdraw the request for assistance at any time prior to a hearing to
536 determine the disposition of a request for assistance. A probation officer may at any time
537 recommend to the court that the request for assistance be dismissed upon a showing that
538 dismissal is in the best interests of the child.

539 Section 39U Fact Finding Hearing

540 1. The court shall hold a fact finding hearing in which it shall receive evidence from the
541 petitioner, the parent, the child, a representative from the community-based services program, if
542 involved with the family, and the probation officer. At any hearing held to determine whether a
543 child and family require assistance, the child and his attorney shall be present and the parents or
544 legal guardian shall be given an opportunity to be heard. The petitioner who files the request for
545 assistance shall bear the burden of presenting evidence proving that the child and family require
546 assistance.

547 2. At the fact finding hearing the court shall review any notice of termination of
548 community-based services. The court shall consider any available documentation of diligent
549 attempts to provide appropriate services and determine whether such efforts or services provided
550 were sufficient. With the consent of the parent(s) and child the court may consider any written
551 reports from service providers which would otherwise be subject to confidentiality or privilege.

552 The court may refer the child and the parent to participate in community-based services
553 regardless of whether or not the child and parents have previously used community based
554 services.

555 3. The court shall either:

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

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

563 (iii) If the court finds the allegations in the request for assistance have been proved at the
564 fact finding hearing beyond a reasonable doubt, it may find that the child and family named in
565 such request for assistance to be a child and family requiring assistance and schedule a hearing
566 for disposition

567 4. No statements made by a child, family member, or by any other person during the
568 period of inquiries, conferences, or referrals may be admitted at any hearing without the consent
569 of the child or the family member who made the statement.

570 Section 39V Disposition Conference and Hearing

571 1. Upon making a finding that a child and family require assistance after a fact finding
572 hearing , the court shall convene a conference of the probation officer who conducted the
573 preliminary inquiry, a representative from the community-based services program, if involved
574 with the family, the petitioner, a representative from the child’s school, the child’s parent and his
575 attorney, the child and his attorney, a representative of the department of children and families, if
576 involved with the family, and any other person who may be helpful in determining the assistance
577 to be offered to the child and family. The probation officer shall present written
578 recommendations and other persons at the conference may present written recommendations to
579 the court to advise the court on appropriate treatment and services for the child and family,
580 appropriate placement for the child, and appropriate conditions and limitations of such
581 placement.

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

587 2. The court shall then conduct a dispositional hearing. The court, taking into
588 consideration the evidence admitted at the hearing, the report of the probation officer, and the

589 physical and emotional welfare of the child, may make any of the following orders of
590 disposition:

591 (a) subject to any conditions and limitations the court may prescribe, including provision
592 for medical, psychological, psychiatric, educational, occupational and social services, and for
593 supervision by a court clinic or by any public or private organization providing counseling or
594 guidance and for any other services deemed appropriate by the court, permit the child to remain
595 with his parents;

596 (b) subject to such conditions and limitations as the court may prescribe, including, but
597 not limited to provisions for services deemed appropriate by the court, including but not limited
598 to services described in clause (a), place the child in the care of any of the following:

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

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

604 (c) subject to the provisions of sections 32 and 33 and with such conditions and
605 limitations as the court may recommend, place the child in the custody of the department of
606 children and families. If the court chooses to place the child in the custody of the department
607 then at the same time, the court shall consider the provisions of section 29C and shall make the
608 written certification and determinations required by said section 29C. When the court has placed
609 a child in the custody of the department, then the department:

610 may not refuse out-of-home placement of a child if the placement is recommended by the
611 court provided that the court has made the written certification and determinations required by
612 said section 29C;

613 may not refuse out of home placement when requested by the child if there is a
614 substantiated history of abuse or neglect in the home by the parent or legal guardian;

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

617 subject to clauses (i) and (ii), shall give due consideration to the recommendations of the
618 court. Whenever the department decides not to carry out the recommendations of the court
619 regarding placement and treatment of the child it shall present the reasons for its decision and the
620 alternative plan for treatment and placement in writing to the court.

621 (d) The court may issue an order directing any state agency to provide particular services
622 to the family and child including but not limited to those services described in clause (a). If the
623 agency is not able to comply with the order directing services then the agency shall provide to
624 the court a written statement of the reasons why it is unable to provide those services. A copy of
625 the statement shall be sent to the house and senate committees on ways and means and the joint
626 committee on children, families and persons with disabilities and the office of the child advocate.

627 Section 39V1/2 Prohibition on placements with the department of youth services or in
628 locked facilities

629 1. Notwithstanding the provisions of subsection 2 (d) the court may not order the child to
630 be placed in the custody of the department of youth services.

631 2. A child found to require assistance shall not be placed in a locked facility or any
632 facility designated or operated for juveniles who are alleged to be delinquent or who have been
633 adjudicated delinquent. However, such child may be placed in a facility which operates as a
634 group home to provide therapeutic care for juveniles regardless of whether juveniles adjudicated
635 delinquent are also provided care in such facility.

636 Section 39W Duration of Assistance

637 1. Any order of disposition under Section 39V shall continue in force for not more than
638 120 days; provided, however, that the court which entered the order may, after a hearing, extend
639 its duration for up to three additional periods, each such period not to exceed 90 days, if the court
640 finds that the purposes of the order have not been accomplished and that such extension would
641 be reasonably likely to further those purposes. The child shall have the opportunity to present
642 evidence and rebut evidence presented at any extension hearing.

643 2. No order shall continue in effect after the eighteenth birthday of a child named in a
644 request for assistance.

645 Section 39X. Custodial Protection

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

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

654 (c) After making every reasonable effort to give notice under paragraph (b), the officer
655 shall:

656 (i) release the child to the custody of his or her parent or other person legally
657 responsible for his or her care upon the written promise, without surety, of the person to whose
658 custody the child is released that he will bring the child to the program designated to provide
659 community-based services for the geographic region which constitutes the district of the juvenile
660 court department within which the child was taken into custodial protection or in which the child
661 resides, at a time and place specified in writing; or

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

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

669 (iv) take the child directly to the juvenile court in which the act occasioning the taking
670 into custodial protection occurred, provided that the officer affirms on the record that he or she
671 attempted to exercise the options identified in paragraphs (i), (ii), and (iii) of this subdivision,
672 was unable to exercise these options, and the reasons therefore.

673 (d) In the absence of special circumstances, the officer shall release the child to his
674 parents or other person legally responsible for his care in accord with paragraph (c)(i).

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

677 (f) Notwithstanding the foregoing requirements for placement, any such child who has
678 been taken into custodial protection shall, if necessary, be taken to a medical facility for
679 treatment or observation.

680 SECTION 5. Notwithstanding any general law to the contrary the secretary of the
681 executive office of health and human services and the commissioners of departments of public
682 health, mental health, developmental services, children and families, youth services and
683 transitional assistance shall enter into memoranda of understanding among themselves and with
684 the department of elementary and secondary education, office of the commissioner of probation,
685 the juvenile court, municipal police departments and school districts to provide coordination,
686 delivery, and funding of services to children and families who, pursuant to the provisions of
687 section 16H(7)(b) of chapter 6A of the General Laws, are not eligible for community-based
688 services established pursuant to section 16H of chapter 6A.

689 SECTION 6. The secretary of the executive office of health and human services shall
690 pilot a program to address the unique needs of girls who run away from their parents and legal
691 guardians.

692 SECTION 7. The department of elementary and secondary education shall pilot a truancy
693 prevention program using a restorative justice format in at least one urban high school in the
694 Commonwealth. The program shall include the use of healing circles which allow family,

695 neighborhood and school community members to be present; a reparative board, comprised of
696 peers and led by an adult; family group counseling, and mediation or alternative dispute
697 resolution with the child, family members and school representatives. The program shall be
698 designed to address the underlying causes both in and out of school which led to truancy. The
699 department shall evaluate the effectiveness of the program in preventing truancy and enhancing
700 the child's academic performance and report the results of that evaluation to the board of
701 elementary and secondary education, the house and senate committees on ways and means, joint
702 committee on education and the department of elementary and secondary education.

703 SECTION 8. Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 3
704 of the first paragraph, the word "sixteen" and inserting in place thereof the following word:-
705 eighteen.

706 SECTION 9. Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 4
707 of the second paragraph, the word "sixteen" and inserting in place thereof the following word:-
708 eighteen

709 SECTION 10. Five years after the effective date of this act, the Child Advocate shall
710 report to the governor, the president of the senate, the speaker of the house, the senate and the
711 house committees on ways and means, and the chairs of the joint committee on children, families
712 and persons with disabilities on the needs of families whose children are truant, runaways, or
713 whose conduct interferes with their parents ability to adequately care for and protect them. The
714 report shall examine: (i) the community-based service system; (ii) the differences in service
715 delivery throughout the state; (iii) the need for immediate response to stabilize a family in crisis
716 and to connect the family to services in their own community; and (iv) the collection and

717 analysis of information, or lack thereof, needed to evaluate and identify gaps in service to such
718 children and families throughout the commonwealth. The report shall also review and make
719 recommendations, as appropriate, with respect to system-wide improvements that may increase
720 the effectiveness of the care and services provided to such children and their families and
721 suggested legislative and regulatory changes. The report shall be made public.

722 SECTION 11. The department of mental health, in collaboration with the department of
723 youth services and the department of public health shall conduct a comprehensive review of the
724 mental health and substance abuse service needs of adolescents in the care of or detained in the
725 commonwealth through the order of a juvenile court, including without limitation juveniles
726 detained in the department of youth services or in the custody of the department of children and
727 families or receiving services from the department of mental health, the court clinics, probation
728 or otherwise and including without limitation any such departments, offices, agencies or
729 instrumentalities of the commonwealth, and any private organizations or agencies operating
730 under arrangement with departments or agencies of the commonwealth. To complete said
731 review the department of mental health, the department of youth services, and the department of
732 public health shall solicit input from the office of probation, the department of children and
733 families , the department of elementary and secondary education, the juvenile court, the juvenile
734 court clinics, the committee for public counsel services, the department of mental retardation, the
735 division of insurance,, the division of medical assistance, the Massachusetts Association of
736 District Attorneys, at least one individual representing the interests of parents and families, at
737 least one advocate for juvenile justice, at least one representative of the service provider
738 community, and at least one representative of the Massachusetts Association of Health Plans.

739 Said review shall be for purposes of identifying the following:

740 existing and proposed models of alternatives to detention, within and outside the
741 commonwealth, of providing mental health and substance abuse services to juveniles in the care
742 of the department of youth services; community resources and other dependencies which affect
743 the appropriateness and effectiveness of models of services designed to avoid placement of
744 children in a locked facility; and data demonstrating the relative efficacy, cost –effectiveness,
745 and effect on public safety of alternative models;

746 unmet mental health and substance abuse needs of juveniles within the juvenile court
747 systems of the commonwealth, including an explicit comparison of the best practices and models
748 identified in paragraph a of this section with services and models available in the
749 commonwealth;

750 recommendations for addressing unmet needs, including without limitation through the
751 court clinics of the juvenile courts, and through contracting by the department of mental health
752 for community based services through community providers, or through consortia of community
753 providers, local government agencies and others operating in congruence with local courts
754 involved in the juvenile justice system.

755 (b) within 60 days after the effective date of this act, the department shall post to its
756 external website, for 30 days public comment, a proposed work plan to gather information
757 necessary to prepare the report required by this section, in consultation with clinical,
758 philanthropic and advocacy organizations for children, and providers of mental health and
759 substance abuse services for minors. The proposed work plan shall be directed to submit a final
760 report to the legislature and the governor no later than 270 days after the effective date of this act.

761 (c) Within 90 days after the effective date of this act, the department shall post its final
762 work plan on its external website.

763 (d) Within 210 days after the effective date of this act, the department shall post on its
764 external website, for public comment, a draft report responsive to this section.

765 (e) Within 270 days after the effective date of this act, the department shall post on its
766 external website, a final report responsive to this section, including a summary of all public
767 comments received, and responses to such comments. The department shall also that day provide
768 a copy to the governor, the president of the senate, the speaker of the house of representatives,
769 the chairs of the joint committees of mental health and substance abuse, and children, families
770 and persons with disabilities and the legislative mental health caucus.

771 SECTION 12. Section 16H(b)(i) shall take effect 12 months after the effective date of
772 this legislation.

773 SECTION 13. Section 16H(b)(ii) shall take effect 24 months after the effective date of
774 this legislation.

775 SECTION 14. Section 16H(b)(iii) shall take effect 24 months after the effective date of
776 this legislation.

777 SECTION 15. Section 16H(b)(iv) shall take effect 24 months after the effective date of
778 this legislation.

779 SECTION 16. Section 16H(b)(v) shall take effect 24 months after the effective date of
780 this legislation.

781 SECTION 17. Section 16H(b)(vi) shall take effect 24 months after the effective date of
782 this legislation.

783 SECTION 18. Section 16H(b)(vii) shall take effect 24 months after the effective date of
784 this legislation.

785 SECTION 19. Section 16H(b)(viii) shall take effect 36 months after the effective date of
786 this legislation, to enable the Secretary to engage in the planning process required to establish the
787 service delivery network provided therein.