

**SENATE . . . . . No. 68**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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 Whereas the issues facing said children and families are  
7 complex and the services which would best assist such families are not always available from a  
8 single agency or department of the Commonwealth and the collaboration among multiple public  
9 and private agencies and offices is required to ensure that all children and families receive the  
10 services they need to succeed; and Whereas the current efforts to help said children and families  
11 lack accountability and consistency; and Whereas services are not consistently available in all  
12 communities; Therefore, it shall be the policy of the Commonwealth to develop a flexible,  
13 consistent, and accountable system of community-based programs to assist said children and  
14 families.

15           2. It is the intent of the General Court to create an accountable, community-based system  
16 that provides consistent services throughout the Commonwealth to address the needs of families  
17 and children in crisis by providing them with an array of resources. The goal of said system is to  
18 preserve and strengthen families while ensuring the healthy emotional, mental, and social  
19 development of the child. These services shall focus on creating a stable environment and  
20 strengthening the family as a whole while emphasizing parental responsibility. Said community-  
21 based system shall provide the family and child with immediate responses for the stabilization of  
22 the family, as well as to connect the family to additional services in the community through  
23 referrals and advocacy. The services provided to the families and children involved shall be  
24 provided on a continuum of increasing intensity with the goal of keeping the child out of the  
25 juvenile justice and child protection systems. The system shall include a mechanism for the  
26 collection and analysis of information which will enable the Commonwealth to evaluate the  
27 effectiveness of services and to identify gaps in services. It is the intent of the General Court to  
28 reserve judicial intervention for those children and families who require services beyond said  
29 community-based services in order to achieve stabilization and resolution.<sup>3</sup> For the purpose of  
30 this Section the following words shall have the following meanings: ‘Child requiring assistance’:  
31 a child between the ages of 6 and 18 who repeatedly runs away from the home of his parents or  
32 legal guardian or repeatedly fails to obey the lawful and reasonable commands of his parents or  
33 legal guardian, thereby interfering with said parent’s or legal guardian’s ability to adequately  
34 care for and protect said child or repeatedly fails to obey the lawful and reasonable regulations of  
35 his school or who is habitually truant;

36           “Community Service Agency”: a community-based organization providing services  
37 under contract with the Commonwealth, whose function is to facilitate access to and ensure

38 coordination of services for families with children with serious emotional disturbance who  
39 require or are already utilizing multiple services, or are involved with multiple child-serving  
40 systems including, but not limited to, the juvenile justice system, department of mental health,  
41 and special education, as agreed upon under the settlement dated August 29, 2006 entered into  
42 by the parties of Rosie D. et al v. Romney civil action No. 01-30199-MAP filed in the United  
43 States District Court.

44 'Family with children requiring assistance': the parents, guardians, siblings, and any  
45 other relatives or caretakers responsible for a child between the ages of 6 and 18 who need  
46 assistance from state, local, or private agencies, or providers of social, educational health, mental  
47 health, or behavioral health services in order to adequately care for and protect the child;

48 'Habitually truant': a child between the ages of 6 and 18 not otherwise excused from  
49 attendance in accordance with the lawful and reasonable regulations of his school who fails to  
50 attend school for more than 8 school days in a quarter; 'Secretary': the secretary of the Executive  
51 Office of Health and Human Services.

52 4. (a) The secretary, in consultation with the Commissioner of the Department of  
53 Children and Families, the Commissioner of the Department of Youth Services and the  
54 Commissioner of the Department of Mental Health, shall establish a network of child and family  
55 service programs throughout the Commonwealth to provide community-based services to all  
56 children and families who are at risk of contact with the juvenile justice system or the child  
57 protection system, families with children requiring assistance, and children who require  
58 assistance. The secretary shall enter into contracts with the Community Service Agencies  
59 (CSAs) who shall act as Community-Based Service Centers, to implement the program and

60 provide services which are within their capacity. The Community-Based Service Centers shall be  
61 permitted, subject to approval by the Secretary, to subcontract with other local providers as  
62 needed to provide the full complement of services required under paragraph 8 of this section.

63 (b) The purpose of the community-based services program shall be to assist families so  
64 that children will be able to continue residing with their families in their home communities;  
65 assist families to enable children to continue as students in their community schools; strengthen  
66 the relationships between children and families; and provide coordinated, comprehensive,  
67 community-based services for children at risk of dropping out of school delinquency, or  
68 engaging in behaviors which impede the likelihood of their leading healthy, productive lives.(c)  
69 The secretary shall:

70 (i) design models for delivery of community-based services by community-based  
71 organizations and collaborations of public and private organizations; (ii) pilot alternative systems  
72 to address the problem of children running away from their parents or legal guardians; (iii)  
73 develop standards necessary to achieve and maintain on a statewide basis comprehensive and  
74 integrated community-based services for children and families; (iv) monitor and provide  
75 technical assistance to providers of community-based services; (v) adopt a standard intake  
76 screening and assessment tool to evaluate all families and children seeking community-based  
77 services which identifies the family's strengths, resources, and service needs such as mental  
78 health, behavioral health, or substance abuse treatment, basic family shelter, clothing and food  
79 needs, child care needs, health insurance status, legal issues, education placement, and child  
80 protection;(vi) create a data collection system for use by programs which maintains the privacy  
81 of clients served, assists programs and the executive office of health and human services in  
82 addressing the needs of the population to be served, collects information related to, among other

83 things, the insurance status and benefit coverage of clients served, income documentation as  
84 needed to apply a sliding fee scale for payment or waiver of payment for services, and other  
85 information that may assist the program and the secretary in providing services, identifying  
86 service needs and gaps, and evaluating the effectiveness of community-based services.

87           5. (a) Subject to appropriation, the secretary shall make grants for the purpose of  
88 planning, establishing, operating, coordinating, and evaluating centers, which will provide  
89 community-based services. At least one grant shall be awarded for the operation of a  
90 community-based services program in each of the 29 Department of Children and Families  
91 service areas. Additionally, two grants shall be awarded for runaway treatment and prevention  
92 programs, one in an urban location and one in a rural location. Grants may award funding for up  
93 to five years subject to demonstration of effectiveness and the submission of annual reports to  
94 the secretary.(b) Preference in awarding the grants shall be given to the CSA for the service area  
95 wherever the experience and resources of the CSA will promote efficiency and increased access  
96 to services. In circumstances where, in the judgment of the secretary, the CSA is not the  
97 appropriate selection for the Community-Based Services Center, proposals may be submitted by  
98 a local school or other local public agency or private organization or medical or mental health  
99 care providers.

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

105 (i) A plan for development, implementation and coordination of direct services as  
106 required under paragraph 8 of this section for families from public and private providers; (ii) A  
107 plan for the establishment of a local advisory board which, wherever possible, shall be a  
108 subcommittee of the Systems of Care Committee required of all CSAs to focus on the needs of  
109 families and children at risk of involvement in the juvenile justice system and the child  
110 protection system. The subcommittee shall include: representatives from school districts, police  
111 officers, juvenile probation officers, district attorneys, attorneys who represent children, mental  
112 health clinicians, behavioral health providers, parents and youth. The committee may also  
113 include local religious organizations, representatives of local businesses, higher education, social  
114 service agencies, public health agencies and other persons with experience in assisting youth and  
115 families in crisis. Membership shall be broadly representative of the racial ethnic and economic  
116 diversity of the community. The local advisory boards may, where necessary to facilitate work  
117 in communities, create similarly constituted work groups for each municipality in the service  
118 area;

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

121 6. (a) Community-based services shall be available to children between the ages of 6 and  
122 18 who are habitually truant or children between the ages of 6 and 18 who run away from the  
123 home of their parents or legal guardian or refuse to obey the lawful rules of their parents or legal  
124 guardian or repeatedly fail to obey school rules and to families whose children engage in such  
125 behaviors. (b) Whenever the staff of the program offering community-based services determines  
126 that a family seeking or referred for services for a child has significant and complex medical  
127 needs which cannot be met by the program or where the child's behavior presents a significant

128 risk of harm to the child himself, the family or the community, the child and family shall be  
129 referred to other services pursuant to paragraph 5 of this section.(c) Where a youth has been  
130 charged with a delinquency offense or is an adjudicated delinquent, eligibility for participation in  
131 community-based services shall be determined by the program administrator after a review of the  
132 facts surrounding the offense by a team consisting of: a community-based services caseworker,  
133 probation officer, family members and the counsel representing the child in the delinquency  
134 matter.(d) Where the child is in the custody of the department of children and families and  
135 residing in an out-of-home placement, eligibility for participation in community-based services  
136 shall be determined by the program administrator after a review of the facts surrounding the  
137 placement by a team consisting of the community-based services caseworker, the department of  
138 children and families caseworker, a responsible adult with whom the child has an ongoing  
139 connection, and any counsel representing the child in the matter of placement and custody.(e)  
140 Where a child or family is denied access to community-based services for reasons other than  
141 those described in this section, the program shall provide a written explanation of reasons for  
142 exclusion and the identification of other community-based services and resources available to  
143 them.(f) When a child or family is denied services pursuant to this section, the program shall  
144 contact the family in person or by telephone within two weeks after the denial decision to  
145 determine if the other appropriate services have been obtained and whether or not community-  
146 based services are now appropriate. The program shall provide to the family and child a notice in  
147 a form acceptable to the juvenile court stating that the family is not eligible for community-based  
148 services and listing the reasons for ineligibility.

149           7. (a) A child or family may seek assistance from a community-based services program  
150 directly and without referral.

151 (b) Pursuant to Section 39R and 39U of Chapter 119, families may be ordered to seek  
152 services from a Community-Based Service Center by a probation officer or judge.

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

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

157 (e) School administrators must refer children or families to community-based services  
158 prior to expelling them for failure to comply with the lawful and reasonable rules of the school or  
159 for habitual truancy, and the outcome of the services shall be considered as part of any decision  
160 to expel for these violations. Provided that when a school administrator refers a child for  
161 habitually truant behavior, it must be shown that the school, child, and family have completed a  
162 department of education certified truancy program, if such a program is available at the school.  
163 Whenever a child or family seeks assistance for habitually truant behavior, the program staff  
164 shall assist the family in gaining access to the child's school's department of education certified  
165 truancy program.

166 8. Community-based services shall include, but are not limited to:

167 (i) program representatives available to respond to requests for service 24 hours a day, 7  
168 days a week;(ii) initial response to referral or request for services by a family or child, which  
169 includes a meeting to determine the circumstances which resulted in the request or referral within  
170 six hours of contact;(iii) a plan for stabilization of any crisis, which initiated the referral or  
171 request within a reasonable time;(iv) assessment and screening of each person requesting  
172 services and, if possible, all family members residing in the household using the standard intake



173 tool as established by the secretary pursuant to paragraph 4(c)(v) within seventy-two hours of the  
174 referral or request. The person conducting the assessment and screening must note the reasons  
175 why any family member was not screened within seventy-two hours of the initial request and  
176 must complete the screening process for all family members residing in the household within one  
177 week of the initial referral;(v) assignment of a case manager to each family upon assessment;(vi)  
178 creation of a family service plan within ten working days from initial contact, which includes:  
179 strength-based assessment and statement of family needs presented; needs of the child; needs of  
180 the parents, legal guardian or legal custodian; measurable objectives that address the identified  
181 needs; services and treatment to be provided by the community-based services program or to  
182 which the family and child will be referred, which may include but are not limited to:  
183 community, medical, mental health and behavioral health services, assistance with obtaining  
184 special education evaluation and services and remedial education services, assistance with  
185 insurance coverage issues; recreational services; mediation and family group conferencing. For  
186 each service or treatment included, the plan shall contain a statement clearly identifying the type  
187 of services or treatment, frequency of services or treatment, location of responsible service  
188 providers or staff, and timeframes for achieving the plan objectives. The service plan shall be  
189 reviewed and agreed upon by the family before implementation;(vii) periodic review of the  
190 family service plan by the case manager and the family to determine whether it is being followed  
191 and if it is effective;(viii) intensive crisis counseling for both children and families; (ix) parent  
192 training in appropriate skill areas directly related to the needs of the family;(x) data collection in  
193 a format as required by the secretary for each referral or request, which protects the privacy of  
194 the individuals seeking services while providing a means to insure that information necessary to  
195 optimize the likelihood of successful outcome for each person seeking services and to permit the

196 evaluation of the effectiveness of the program;(xi) compilation and dissemination to the general  
197 public of information about family support resources and services available in the community;  
198 (xii) crisis intervention residential placements for children for up to 72  
199 hours; (xiii) voluntary respite residential placement of the child for up to 21 days; and  
200 (xiv) mediation or alternative dispute resolution. (xv) The  
201 program shall make available to the public information that identifies a variety of community-  
202 based educational, social, medical, mental health and behavioral health services available to  
203 assist families and children.

204 9. (a) Participation in community-based services shall be pursuant to a voluntary  
205 agreement of the parent or legal guardian and the child. Families or children may terminate their  
206 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 or legal guardian that they may be responsible  
212 for co-payments for covered services and for contributing to the cost of non-covered services for  
213 the child or family. Allowable rates for services not covered by insurance, including the portion  
214 for which parents will be held responsible, shall be set by the secretary and periodically adjusted  
215 as needed to meet actual costs.

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

219 10. (a) Each family shall have a case manager who shall be responsible for working with  
220 the family to develop a crisis stabilization plan where warranted and a family service plan;  
221 coordinating services; assisting the family to resolve administrative issues including issues with  
222 insurance coverage, interagency issues and other issues which serve as barriers to successful  
223 implementation of the service plan; facilitating communication between providers as authorized  
224 by the child or their parent or legal guardian; implementing resolution processes when necessary;  
225 and working with the case staffing team to create an after care plan.

226 (b) The composition of the case staffing team shall be based on the needs of the family  
227 and child and be chosen after consultation with the child and their parent or legal guardian. It  
228 shall include the case manager, the primary providers of services to the child and family, a  
229 representative from the child's school district. The case staffing team may also include other  
230 individuals with professional expertise in health care, mental health care, behavioral health care,  
231 substance abuse, social or educational services, or other persons recommended by the child,  
232 parent or legal guardian, or case manager.

233 (c) The service engagement team shall be comprised of the Director of the Community-  
234 Based Service Center or their designee, members of the local advisory board and other  
235 professionals who are charged with developing engagement strategies for the Center and, at the  
236 request of the child, parent or guardian, or the case manager, addressing barriers to the initial  
237 engagement of individual children and their families.

238 (d) The case manager shall, in consultation with the family, develop a family service plan  
239 which shall be provided to the child and their parent or legal guardian and other family members  
240 requiring assistance who are involved in the plan within ten days of the initial referral. Upon  
241 receipt of the plan, the child and each family member named in the plan shall accept or reject the  
242 services and provisions in writing. Each service provider identified in the plan shall also accept  
243 or reject their participation in writing. If the plan is accepted, it shall be implemented  
244 immediately. If the child or family is not in agreement with the plan and attempts by the case  
245 manager to develop an alternative plan are unsuccessful or when the services required are not  
246 available, the child, their parent or guardian or the case manager may request review by the  
247 service engagement team who shall assist the case manager, child and family in developing an  
248 alternative plan.

249 (e) The case manager and the family shall be equally responsible for implementing the  
250 plan. The case manager, the family and child shall periodically review the progress towards  
251 achieving the objectives of the plan in order to:

252 (i) advise the case staffing team of the need to make adjustments to the plan; or (ii)  
253 terminate the case as indicated by successful or substantial achievement of the objectives of the  
254 plan.

255 (f) The case manager shall request a meeting of the family and child at a time and place  
256 that is convenient to them with a case staffing team to review the family service plan of any  
257 family or child whenever:

258 (i) the family or child is not in agreement with the services or treatment offered; or(ii) the  
259 family or child does not participate in the services or treatment selected; or(iii) a school state

260 agency or private service provider does not provide the services or treatment selected; or (iv) the  
261 case manager needs assistance in developing an appropriate plan for the provision and funding of  
262 services; or(v) there is cause to believe that continuation of services is no longer appropriate  
263 because the child has complex medical needs which cannot be met by the program or where the  
264 child's behavior presents a significant risk of harm to the child himself the family or the  
265 community.

266 (g) The parent or legal guardian or child who is over the age of 16 or any other member  
267 of the case staffing team may make a written request that the case manager convenes a resolution  
268 meeting at any time if the member finds that doing so is in the best interest of the family or child.  
269 A resolution meeting requested by a parent or legal guardian or child who is over the age of 16  
270 must be convened within 7 working days from the date that the case manager receives the  
271 request in writing. 11. (a) Not more than 110 days after the assessment and screening of a child  
272 and family referred to or requesting community-based services, or 10 days prior to any extension  
273 of services granted under paragraphs c and d of this section, the case manager shall convene a  
274 resolution meeting with the case staffing team to assess whether the goals of the family service  
275 plan have been achieved or if further services are in the best interest of the family and  
276 child. After the meeting the case manager shall document the resolution of the case as follows:

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

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

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

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

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

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

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

291 (d) If the family was referred to community-based services by a court or a probation  
292 officer, then services may be extended for additional 90 day periods at the request of the court or  
293 probation officer.12. (a) The report and any documentation of services provided to the family  
294 and child shall not be public records. Statements made by the family and child while receiving  
295 services from the program shall be treated as confidential. Such statements may not be used in  
296 school disciplinary proceedings and may not be admitted into evidence in any court proceeding  
297 arising from the circumstances which brought the family and child to the program unless the  
298 child and family waive their privilege or unless a court finds that such inadmissibility would  
299 result in substantial harm to the child.

300 (b) Any person offering community-based services to children under this program shall  
301 be required to report suspected physical or emotional abuse or neglect of a child pursuant to  
302 General Laws Chapter 119 Section 51A.(c) Notwithstanding any provision to the contrary, in

303 the absence of specific written directive from the child and or member of the family who is  
304 receiving service, information about the case, including interactions with service providers and  
305 protected health information services, may be shared among members of the case team as needed  
306 to coordinate treatment and provide appropriate case management.13. There shall be an advisory  
307 council appointed by the secretary, which shall advise the secretary on creation, operation, and  
308 effectiveness of the community-based services program. Members shall include the  
309 commissioners or their designees of the departments of public health, mental health,  
310 developmental services, children and families, youth services, transitional assistance, elementary  
311 and secondary education and public safety, the director of the office of Medicaid or his designee,  
312 the commissioner of probation or his designee, the chief justice of the juvenile court or his  
313 designee, a district attorney, members of the bar who represent children in juvenile court  
314 proceedings, a designee of the committee on public counsel services, an education advocate,  
315 representatives of urban, suburban, and rural municipal police departments and school districts,  
316 providers of service to children and families, parents, and at least 2 young adults who have  
317 participated in a community-based services program.14. The secretary shall report annually on  
318 February 1 to the joint committee on children, families and persons with disabilities and the  
319 house and senate committees on ways and means and the child advocate on the progress of the  
320 community-based services program.

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

324 SECTION 2: Chapter 69 of the General Laws is hereby amended by adding after section  
325 1N the following new section:

326 Section 1O. Within three years of the effective date of this act, the department shall,  
327 subject to appropriation, establish a discretionary grant program to assist schools in planning and  
328 implementing truancy preventions programs which meet the certification requirements  
329 established pursuant to section 1P of Chapter 69.”

330 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section  
331 1O the following new section:

332 Section 1P

333 The Department of Education shall promulgate regulations establishing a truancy  
334 prevention program certification process. School districts shall establish a truancy prevention  
335 program which meets the requirements for certification by the department. .

336 SECTION 4:Chapter 119 of the General Laws is hereby amended by repealing Sections  
337 39E to 39J, inclusive, and adding the following new sections:

338 Section 39K. Definitions

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

344 ‘Family requiring assistance’, the parents, guardians, siblings and any other relatives or  
345 caretakers responsible for a child between the ages of 6 and 18 who need assistance from state,



346 local, or private agencies or providers of social, educational, health, mental health, or behavioral  
347 health services in order to adequately care for and protect the child;

348 “Habitual truant”, a child between the ages of 6 and 18 , not otherwise excused from  
349 attendance in accordance with the lawful and reasonable regulations of his school, who fails to  
350 attend school for more than 8 school days in a quarter;

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

### 352 Section 39L. Jurisdiction

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

### 355 Section 39M. Nature of the Proceedings

356 1. Proceedings pursuant to sections 39K to 39X, inclusive, shall not be deemed criminal  
357 proceedings and any record of these proceedings, including the filing of a request for assistance  
358 and creation of a docket, shall not be entered in the Criminal Offender Record Information  
359 System.

360 2. Proceedings pursuant to sections 39K to 39X, inclusive, shall be confidential and not  
361 be open to the public.

### 362 Section 39N. Request for Assistance

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

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

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

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

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

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

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

381 (e) that the child and family require assistance.

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

383 (a) a police officer;

384 (b) a parent;

385 (c) a school district;

386 3. The petitioner shall attach to the request for assistance the notice of termination of  
387 community-based services as provided for in chapter 6A, section 16H(11)(b) or notice of  
388 ineligibility as provided for in chapter 6A, section 16H(e). Except as provided below, the clerk  
389 shall not accept for filing any request for assistance that does not have attached thereto said  
390 notice of termination or ineligibility. Any person or agency seeking to file a request for  
391 assistance pursuant to this section which does not have attached thereto the notice of termination  
392 of community-based services shall be referred by the clerk of the court to the program designated  
393 by the secretary of the executive office of health and human services to provide community-  
394 based services in the juvenile court district where the child resides. If the petitioner is a police  
395 officer, the clerk may accept a written statement of the reasons for the officer's belief that the  
396 referral to community-based services prior to filing the request for assistance would present a  
397 risk of harm to the child or others in lieu of the notice of termination or ineligibility. The clerk  
398 shall then immediately contact the designated community-based services to provide notice that a  
399 request for assistance has been filed. If the petitioner is a parent, then the clerk may accept a  
400 written statement of the parents' reasons for the parents' belief that referral to community based  
401 services prior to filing the request for assistance would present a risk of significant harm to the  
402 child, family or community. The court shall then immediately review the request for assistance  
403 and if the court finds that referral of the family and child to community based services is likely to  
404 result in said harm, then the court shall order the creation of a docket for the matter and assign a  
405 probation officer to conduct an immediate inquiry and report to the court with advice on how to  
406 proceed to obtain assistance for the child.

407 Section 39O Notice

408           1. Except as provided in subsection 2, on the filing of a request for assistance pursuant to  
409 this section, the court may cause a copy of the request for assistance and a summons to be issued,  
410 requiring the child and each parent to appear at the court at a time and place named to address  
411 the request for assistance

412           2. In proceedings originated by a parent the court shall cause a copy of the request for  
413 assistance and notice of the time and place to be heard to be provided to that person when the  
414 request is filed. The court is not required to issue a summons to that person.

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

419           4. Unless service of the summons required by this section is waived in writing, such  
420 summons shall be served by a constable or police officer, either by delivering it personally to the  
421 person to whom addressed, or by leaving it with a person of proper age to receive the same, at  
422 the place of residence or business of such person, and said constable or police officer shall  
423 immediately make return to the court of the time and manner of service.

#### 424           Section 39P Scheduling the Fact Finding Hearing

425           The clerk shall set a date for a fact finding hearing no more than 90 days from the date  
426 the request for assistance is filed. If at any time prior to the hearing the parents, child, petitioner  
427 and probation officer agree, the fact finding hearing may be postponed for an additional 90 days  
428 after the expiration of the initial 90 day period.

429           Section 39Q Appointment of Counsel

430           1. When the request for assistance is filed the child shall be informed that he has a right  
431 to counsel at all hearings, and if said child is not able to retain counsel, the court shall appoint  
432 counsel for said child. The court shall appoint counsel for the child when the request for  
433 assistance is filed. The clerk shall cause a copy of the request for assistance and notice of the  
434 time and place of the fact finding hearing to be delivered to counsel at the time of appointment.

435           2. When the request for assistance is filed, each parent or legal guardian of the child shall  
436 be informed that he has the right to participate as a party in any proceeding under sections 39K to  
437 39X involving his child and that he has the right to counsel at any hearing or proceeding  
438 regarding custody of his child. If said parent or legal guardian is financially unable to retain  
439 counsel, the court shall appoint counsel for said parent or legal guardian.

440           3. The court shall determine whether the parent or legal guardian of a child alleged to  
441 require assistance is indigent. If the court determines that the parent or legal guardian is not  
442 indigent, the court shall assess a \$300 fee against the parent or legal guardian to pay for the cost  
443 of counsel appointed for the child. If the parent or legal guardian is determined to be indigent but  
444 is still able to contribute toward the payment of some of said costs, the court shall order the  
445 parent or legal guardian to pay a reasonable amount toward the cost of counsel appointed for the  
446 child.

447           Section 39R Preliminary Inquiry by Probation

448           1. The chief probation officer or his designee shall conduct a preliminary inquiry to  
449 determine whether in his opinion the best interests of the child and family require that crisis  
450 intervention services be provided to the child and family.

451 The probation officer in his discretion may:

452 (a) refer the family and child to the program designated to provide community-based  
453 services for this juvenile court division; the probation officer may confer with the provider of  
454 community-based services to resolve the situation which formed the basis of the request for  
455 assistance;

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

458 (c) conduct conferences with the child, the child's family and the petitioner for the  
459 purpose of effecting adjustments or agreements which are calculated to resolve the situation  
460 which formed the basis of the request for assistance;

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

466 2. (a) The probation officer shall gather information concerning the child and family  
467 which in both substance and format is compatible with and complementary to the information  
468 gathered by programs providing community-based services pursuant to section 16H of chapter  
469 6A.

470 (b) The Commissioner of Probation shall establish a data collection system for use by  
471 probation officers assisting children pursuant to sections 39K through 39X which maintains the

472 privacy of clients served, assists the court in addressing the needs of the population to be served,  
473 collects information related to, among other things the insurance status and coverage of clients  
474 served, and other information that may assist the commissioner and the court in evaluating the  
475 availability and effectiveness of services for children who are the subjects of requests for  
476 assistance pursuant to this section.

477 (c) The Commissioner of Probation shall report annually to the Child Advocate on the  
478 assistance provided by probation officers to children and families under Sections 39K to 39X.  
479 The report shall be filed on October 1 of each year and shall include for each juvenile court  
480 district: the number of children and families receiving assistance, an analysis of the services  
481 provided and an identification of gaps in services available, the status or resolution of each  
482 request for assistance filed in the previous year, and the numbers of children who are the subject  
483 of a request for assistance and also charged with a delinquency matter in the previous year,

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

491 Section 39S Custody, Failure to Appear

492 If, after a hearing at which the child is represented by counsel, the court finds that a child  
493 alleged to require assistance by reason of repeatedly failing to obey the lawful and reasonable

494 commands of his parent is likely not to appear at the fact finding hearing or at the disposition  
495 hearing, the court may place the child in the temporary custody of the Department of Children  
496 and Families.

497 An order under this Section shall be valid for no more than 15 days without the child  
498 being brought again before the court for a hearing on whether the order should be continued for  
499 another 15 day period. If the court decides to extend the order, it shall note in writing the  
500 detailed reasons for its decision. An order under this section may be in effect for no more than  
501 45 days total.

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

#### 505 Section 39T Withdrawal of Request for Assistance

506 The petitioners may, upon a showing that the circumstances which brought the matter  
507 before the court have been resolved, withdraw the request for assistance at any point prior to a  
508 hearing to determine the disposition of a request for assistance.

#### 509 Section 39U Fact Finding Hearing

510 1. The court shall hold a fact finding hearing in which it shall receive evidence from the  
511 petitioner, the parent, and the community-based services program case manager and the  
512 recommendation of the probation officer.

513 2. At the fact finding hearing the court shall review any notice of termination of  
514 community-based services. The court shall consider any available documentation of diligent



515 attempts to provide appropriate services and determine whether such efforts or services provided  
516 were sufficient. With the consent of the parent(s) and child the court may consider any written  
517 reports from service providers which would otherwise be subject to confidentiality or privilege.

518         The court may order the child and the parent or other person legally responsible for the  
519 child to participate in community-based services regardless of whether or not the child and  
520 parents have previously used community based services on a voluntary basis. If the designated  
521 program thereafter determines that the case has been successfully resolved, it shall so notify the  
522 court, and the court shall dismiss the request for assistance.

523         3. The court shall either:

524             (i) dismiss the request for assistance because the circumstances which led to the filing of  
525 a request for assistance have been resolved and the court finds that the child and family do not  
526 require assistance;

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

531             (iii) find that the child and family require assistance and schedule a hearing for  
532 disposition

533         4. No statements made by a child, family member, or by any other person during the  
534 period of inquiries, conferences, or referrals may be admitted at the fact finding hearing without

535 the consent of the child or family member who made the statement, but may be received by the  
536 court at the hearing for disposition

537 Section 39V Disposition Hearing

538 1. At any hearing held to determine whether a child and family require assistance, the  
539 child and his attorney shall be present and the parents or legal guardian shall be given an  
540 opportunity to be heard. The petitioner who files the request for assistance shall bear the burden  
541 of presenting evidence proving that the child and family require assistance. If the court finds the  
542 allegations in the request for assistance have been proved at the fact finding hearing by a  
543 preponderance of the evidence, it may find that the child and family named in such request for  
544 assistance to be a child and family requiring assistance.

545 2. Upon making a finding that a child and family require assistance, the court shall  
546 convene a meeting of the probation officer who conducted the preliminary inquiry, the case  
547 manager, if any, from the community-based services program, the petitioner, a representative  
548 from the child's school, the child's parent, a representative of the department of children and  
549 families, and any other person the court deems helpful in determining the assistance to be offered  
550 to the child and family. The persons at the meeting shall present written findings to the court to  
551 advise the court on appropriate treatment and services for the child and family and appropriate  
552 placement for the child and appropriate conditions and limitations of such placement. The court,  
553 taking into consideration those findings and the physical and emotional welfare of the child, may  
554 make any of the following orders of disposition:

555 (a) subject to any conditions and limitations the court may prescribe, including provision  
556 for medical, psychological, psychiatric, educational, occupational and social services, and for

557 supervision by a court clinic or by any public or private organization providing counseling or  
558 guidance services, permit the child to remain with his parents;

559 (b) subject to such conditions and limitations as the court may prescribe, including, but  
560 not limited to provisions for those services described in clause (a), place the child in the care of  
561 any of the following:

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

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

567 (iii) a private organization which, after inquiry by the probation officer or other person or  
568 agency designated by the court, is found to be qualified to receive and care for the child.

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

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

578           may not refuse out of home placement when requested by the child if there is a  
579 substantiated history of abuse and neglect in the home by the parent or legal guardian;  
580           subject to clauses (i) and (ii), shall direct the type and length of such out-of-home  
581 placement;

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

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

592           (e) Notwithstanding the provisions of subsection 2 (d) the court may not order the child  
593 to be placed in the custody of the department of youth services and may not be placed in a locked  
594 facility.

595           3. A child found to require assistance shall not be placed in a locked facility or any  
596 facility designated or operated for juveniles adjudicated delinquent. However, such child may be  
597 placed in a facility which operates as a group home to provide therapeutic care for juveniles  
598 regardless of whether juveniles adjudicated delinquent are also provided care in such facility.

599 Section 39W Duration of Assistance

600 1. Any order of disposition under Section 39V shall continue in force for not more than  
601 90 days; provided, however, that the court which entered the order may, after a hearing, extend  
602 its duration for up to three additional periods, each such period not to exceed 90 days, if the court  
603 finds that the purposes of the order have not been accomplished and that such extension would  
604 be reasonably likely to further those purposes. Orders shall be extended upon a finding that the  
605 child or family are not participating in good faith.

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

608 Section 39X. Custodial Protection

609 1. (a) A child may be taken into custodial protection for engaging in the behaviors  
610 described in section 39N, only if such child has failed to obey a summons issued pursuant to  
611 section 390, or if the law enforcement officer initiating limited custody has probable cause to  
612 believe that such child has run away from the home of his parents or legal guardian.

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

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

618 (i) release the child to the custody of his or her parent or other person legally responsible  
619 for his or her care upon the written promise, without surety, of the person to whose custody the

620 child is released that he will bring the child to the program designated to provide community-  
621 based services for the geographic region which constitutes the district of the juvenile court  
622 department within which the child was taken into custodial protection or in which the child  
623 resides, at a time and place specified in writing; or

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

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

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

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

637 (e) A child may not be securely detained in a police station or town lockup. At no time  
638 shall a child be placed in any locked facility under the supervision of any police department,  
639 sheriff department, or department of youth services.

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

643 SECTION 5

644 Notwithstanding any general law to the contrary the secretary of the executive office of  
645 health and human services and the commissioners of departments of public health, mental health,  
646 developmental services, children and families, youth services and transitional assistance shall  
647 enter into memoranda of understanding among themselves and with the department of education,  
648 office of the commissioner of probation, the juvenile court, municipal police departments and  
649 school districts to provide coordination, delivery, and funding of services to children and  
650 families who, pursuant to the provisions of section 16H(7)(b) of chapter 6A of the General Laws,  
651 are not eligible for community-based services established pursuant to section 16H of chapter 6A.

652 SECTION 6

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

655 SECTION 7

656 The department of education shall pilot a truancy prevention program using a restorative  
657 justice format in at least one urban high school in the Commonwealth. The department shall  
658 evaluate the effectiveness of the program in preventing truancy and enhancing the child's  
659 academic performance and report the results of that evaluation to the board of education.

660 SECTION 8.

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

663 SECTION 9.

664 Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 4 of the second  
665 paragraph, the word "sixteen" and inserting in place thereof the following word:- eighteen