

# SENATE . . . . . No. 66

---

## The Commonwealth of Massachusetts

PRESENTED BY:

***Karen E. Spilka***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regarding families and children engaged in services.

PETITION OF:

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

# SENATE . . . . . No. 66

---

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

---

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

## The Commonwealth of Massachusetts

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

An Act regarding families and children engaged in services.

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

1           AN ACT REGARDING FAMILIES AND CHILDREN ENGAGED IN SERVICES

2                   SECTION 1.

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

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

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

Whereas services are not consistently available in all communities;

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

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

Section 16T. Community based services for families and children

Intent

(a) It is the intent of the General Court to create an accountable, community-based services network that provides consistent services throughout the Commonwealth to address the needs of children requiring assistance and their families by providing them with an array of resources. The goal of said system is to preserve and strengthen families while ensuring the healthy behavioral, social and educational development of the child and to provide opportunities to divert children from the juvenile justice and child protection systems. These services shall focus on creating a stable environment and strengthening the family as a whole while

emphasizing parental responsibility. These services shall also focus on assisting children who are at risk of dropping out of school.

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

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

#### Definitions

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

“Child requiring assistance”, a child between the ages of 6 and 18 who (a) repeatedly runs away from the home of his parents, legal guardian, or custodian; (b) repeatedly fails to obey the lawful and reasonable commands of his parents, legal guardian, or custodian, thereby interfering with said parent’s, legal guardian’s, or custodian’s ability to adequately care for and

protect said child; (c) repeatedly fails to obey the lawful and reasonable regulations of his school;  
or (d) who is habitually truant;

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

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

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

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

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

Creation of the CBS network

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

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

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

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

(4) coordinate the purchase of services for the network which may include outreach, intake, screening, assessment and referral to services. Services offered

through the network shall include, but are not limited to treatment for or assistance with: eligibility determinations, behavioral, medical, and mental health needs, special education evaluation, remedial education services, assistance with insurance issues, mentoring, family and parent support, civic engagement and community service, after school and out-of-school opportunities, residential programs, crisis management and case management. The secretary shall encourage cooperation among local providers as needed to provide the full complement of services required under this section. (48 months)

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

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

(7) create a data collection system for use by programs within the community based services network which maintains the privacy of clients served, assists programs and the secretary in addressing the needs of the population to be served, collects information related to, among other things, the insurance status and benefit coverage of clients served, income documentation as needed to apply a sliding fee scale for payment or waiver of payment for services, and other information that may assist the program and the secretary in

providing services, identifying service needs and gaps, and evaluating the effectiveness of community-based services.(36 months- to apply to pilot)

#### Confidentiality

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

#### Voluntary nature of services

(e) Participation in community based services shall be pursuant to a voluntary agreement of the parent, legal guardian, or custodian and the child; provided however that



provision of community based services shall be contingent upon parents, legal guardians and custodians granting consent to allow covered services to be billed to the insurance providers.

#### School referrals during expulsion process

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

#### DESE certified truancy prevention program

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

Section 10. The department of elementary and secondary education shall promulgate regulations establishing a truancy prevention program certification process. The regulations shall be consistent with the schools and behavioral health framework developed by the department under section 19 of chapter 321 of the acts of 2008 and shall include

requirements that the truancy prevention program evaluate the level of out-of-school support for students and families, and address the conditions that may make students more likely to become truant, including previously unidentified special needs, bullying and harassment. School districts shall establish a truancy prevention program which meets the requirements for certification by the department.

#### Chapter 119 definitions

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

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

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

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

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

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

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

#### Court Process

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

#### Section 39K. Jurisdiction

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

#### Section 39L. Nature of the Proceedings

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

(b) Notwithstanding any general or special law to the contrary, no record pertaining to the child involved in the proceedings shall be maintained or remain active after the request for assistance is dismissed. The identity and record of any child for which a request for assistance is

198 filed shall not be submitted to the criminal history systems board, criminal offender record  
199 information system, court activity record index or any other criminal record information system.

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

202 Section 39M. Request for Assistance

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

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

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

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

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

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

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

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

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

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

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

(2) a parent;

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

(c) (1) When a request for assistance is presented to the clerk for filing by a parent or a police officer, the clerk shall determine whether or not the child and family named in the petition have received services from a community service program created under section 16T of chapter 6A. If the child and family have participated in such services, the clerk shall attach to

the petition a statement of the petitioner that identifies the community based services program that provided assistance. If the child and family have not participated in such services the clerk shall inform the petitioner that they may delay filing the request for assistance and may chose to first be referred to the program designated by the secretary of the executive office of health and human services to provide community-based services in the juvenile court district where the child resides and at a later time return to court and file a request for assistance if needed.

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

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

how to proceed to obtain assistance for the child. After considering such advice the clerk may accept the request for assistance for filing.

#### Section 39N. Notice

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

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

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

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

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

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

Section 39P. Scheduling the Fact Finding Hearing



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

#### Section 39Q. Appointment of Counsel

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

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

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

order the parent or legal guardian to pay a reasonable amount toward the cost of counsel appointed for the child.

#### Section 39R. Preliminary Inquiry by Probation

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

The probation officer in his discretion may:

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

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

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

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

(b) If the child or his parents fail to participate in good faith with the referrals or conferences arranged by the probation officer or if the probation officer is not able to refer the child or his parents to an appropriate public or private organization which is willing and able to

provide appropriate services, the probation officer shall so certify in writing and present these findings to the court.

(c) (1) The commissioner of probation shall establish a system to collect data on all requests for assistance made and how they are resolved under sections 39K through 39Y. Said system shall maintain the privacy of clients served, assist the court in addressing the needs of the population to be served and collect information related to: the racial and ethnic identity of the child; the insurance status and coverage of clients served; the length of time a child is receiving assistance from a probation officer; the identity of any public or private organization to whom a probation officer has referred a child or family for services; and any other information that may assist the commissioner and the court in evaluating the availability and effectiveness of services for children who are the subjects of requests for assistance pursuant to this section.

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

(3) The commissioner of probation shall report annually to the child advocate, the Families and Children Engaged in Services advisory board, the house and senate committees on ways and means, joint committee on children, families and persons with disabilities and the joint committee on the judiciary on the assistance provided by probation

officers to children and families under Sections 39K to 39Y. The report shall be filed on October 1 of each year and shall include for each juvenile court district: the number of children and families receiving assistance; their racial and ethnic identity, as identified by the child and family members; an analysis of the services provided and an identification of gaps in services available; the status or resolution of each request for assistance filed in the previous year; and the numbers of children who are the subject of a request for assistance and also charged with a delinquency matter in the previous year. The report shall exclude information that identifies or allows others to identify any child or family who is the subject of a request for assistance.

#### Section 39S. Custody, Failure to Appear

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

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

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

#### 398                   Section 39T. Withdrawal of Request for Assistance

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

#### 403                   Section 39U. Fact Finding Hearing

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

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

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

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

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

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

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

(a). Upon making a finding that a child requires assistance after a fact finding hearing, the court shall convene a conference of the probation officer who conducted the preliminary inquiry, a representative from the community-based services program, if involved with the family, the petitioner, a representative from the child's school, the child's parent and his attorney, the child

and his attorney, a representative of the department of children and families, if involved with the family, and any other person who may be helpful in determining the most effective assistance available to be offered to the child and family. The probation officer shall present written recommendations and other persons at the conference may present written recommendations to the court to advise the court on appropriate treatment and services for the child and family, appropriate placement for the child, and appropriate conditions and limitations of such placement.

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

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

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

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

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

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

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

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

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



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

477 (iv) subject to clauses (i) and (ii), shall give due  
478 consideration to the recommendations of the court. Whenever the department decides not to  
479 carry out the recommendations of the court regarding placement and treatment of the child it  
480 shall present the reasons for its decision and the alternative plan for treatment and placement in  
481 writing to the court.

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

489 (5) Where the family or child are directed by the court to participate  
490 in treatment or services which are eligible for coverage by an insurance plan under section 22 of  
491 chapter 32A, section 10F of chapter 118E, section 47B of chapter 175, section 8A of chapter  
492 176A, or section 4A of chapter Ch.176B Sec.4A, payment for such services shall not be denied if  
493 the treatment or services otherwise meet the criteria for health plan coverage.

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

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

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

#### Section 39X. Duration of Assistance

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

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

#### Section 39Y. Custodial Protection

(a) (1) A child may be taken into custodial protection for engaging in the behaviors described in section 39M, only if such child has failed to obey a summons issued pursuant to section 39N, or if the law enforcement officer initiating limited custody has probable

516 cause to believe that such child has run away from the home of his parents or legal guardian and  
517 will not respond to a summons.

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

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

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

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

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

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

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

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

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

548 Increasing the age of mandatory school attendance

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

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

555 Restorative Justice – truancy prevention pilot

SECTION 10. Subject to appropriation, the department of elementary and secondary education shall pilot a truancy prevention program using a restorative justice format in at least one urban high school in the Commonwealth. The program shall include the use of healing circles which allow family, neighborhood and school community members to be present; a reparative board, comprised of peers and led by an adult; family group counseling, and mediation or alternative dispute resolution with the child, family members and school representatives. The program shall be designed to address the underlying causes both in and out of school which led to truancy. The program shall be consistent with and organized according to the schools and behavioral health framework developed by the department under section 19 of chapter 321 of the acts of 2008. The department shall evaluate the effectiveness of the program in preventing truancy and enhancing the child's academic performance and report the results of that evaluation to the board of elementary and secondary education, the house and senate committees on ways and means, joint committee on education and the department of elementary and secondary education and the child advocate.

#### Runaway pilot

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

#### Probation Data collection

SECTION 12. Within 12 months of the effective date of this act, the Commissioner of Probation shall submit a report to the Child Advocate, the Families and Children Engaged in Services advisory board, the house and senate committees on ways and

means, joint committee on children, families and persons with disabilities and the joint committee on the judiciary. The report shall include for each juvenile court district: the number of children and families receiving assistance from probation officers; the racial and ethnic identity of the children and families, as identified by the child and family members; an analysis of the services provided and an identification of gaps in services available; the status or resolution of each request for assistance filed under section 39M of chapter 119; the number of children who are the subject of a request for assistance and also charged with a delinquency matter in the previous year; and the custody status of the child that is subject to the request for assistance, specifying if the child is in the custody of the department of children and families or committed to the care of the department of youth services. The report shall exclude information that identifies or allows others to identify any child or family involved in the juvenile justice system.

Advisory board to guide implementation and monitor the new system

SECTION 13. (a) There shall be established within the executive office of health and human services but not subject to the control of said executive office a Families and Children Requiring Assistance Advisory Board, hereinafter called the advisory board. The advisory board shall consist of the following members: 4 representatives of the executive office of health and human services appointed by the secretary, one of whom shall be a representative of the department of children and families, one of whom shall be a representative of the department of youth services, one of whom shall be a representative of the department of mental health, one of whom shall be a representative of the office of Medicaid; the child advocate or her designee; a representative of the department of elementary and secondary education, appointed by the commissioner; a juvenile court judge appointed by the chief justice of the juvenile court; a

601 probation officer assigned to a juvenile court, appointed by the commissioner of probation; 4  
602 members appointed by the Governor, one of whom shall be a district attorney, one of whom shall  
603 be a designee of the committee for public counsel services, one of whom shall be an independent  
604 education advocate, and one who is a parent and is not an employee of the commonwealth; one  
605 member appointed by the Speaker of the House and one member appointed by the President of  
606 the Senate.

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

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

support to continue with the activities identified in section 16T of chapter 6A and sections 39K through 39Y of chapter 119.

(c) The secretary of the executive office of health and human services, the commissioner of department of elementary and secondary education, the commissioner of probation, and the chief justice of the juvenile court shall provide to the advisory board periodic data reports which include information about families and children seeking or referred for assistance and services provided. Within 12 months of the effective date of this act the advisory board shall submit recommendations to the governor for funding and implementation activities based on the review of the data submitted.

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

Timeline



SECTION 14. (a) Within 24 months of the effective date of this act, the secretary of the executive office of health and human services shall, with the advice of the advisory board established in SECTION 13 of this act, design a model for the delivery of community based services for children requiring assistance which will augment, be compatible with and integrated with existing community-based service systems for children, as required by SECTION 2 of this act. Said model shall include a system to gather data including: demographic information, insurance status and benefit coverage of clients served, income documentation as needed to apply a sliding fee scale for payment or waiver of payment for services, and other information that may assist the program and the secretary in providing services and evaluating the effectiveness of community based services, as required by SECTION 2 of this act. The model shall allow a child or family to seek assistance from a community-based services agency directly and without referral. The model shall include procedures for referral to other services whenever the staff of the agency offering community-based services determines that a family seeking or referred for services for a child has significant and complex medical needs which cannot be met by the agency or where the child's behavior presents a significant risk of harm that cannot be safely managed in the community.

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

(c) Subject to appropriation, within 36 months of the effective date of this act, the secretary shall pilot a community based service system program in one or more geographic regions of the commonwealth. The secretary, with the advice and assistance of the advisory

668 board shall analyze the effectiveness of these pilot sites in order to make necessary changes to  
669 the program design in establishing network of community-based service programs throughout  
670 the commonwealth.

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