HOUSE DOCKET, NO. 1235 FILED ON: 1/16/2013

HOUSE . . . . . No. 1799

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia and Jennifer L. Flanagan

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 to protect children's mental health services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Elizabeth A. Malia	*11th Suffolk*
Jennifer L. Flanagan	*Worcester and Middlesex*
Stephen L. DiNatale	*3rd Worcester*
Jason M. Lewis	*Fifth Middlesex*
Kay Khan	*11th Middlesex*
Ruth B. Balser	*12th Middlesex*
Martin J. Walsh	*13th Suffolk*
Kenneth J. Donnelly	*Fourth Middlesex*
Paul McMurtry	*11th Norfolk*
Danielle W. Gregoire	*4th Middlesex*
Alan Silvia	*7th Bristol*
Ellen Story	*3rd Hampshire*
Frank I. Smizik	*15th Norfolk*
Thomas M. Stanley	*9th Middlesex*
John F. Keenan	*Norfolk and Plymouth*
Benjamin Swan	*11th Hampden*
Sal N. DiDomenico	*Middlesex and Suffolk*
Denise Andrews	*2nd Franklin*

Denise Provost	*27th Middlesex*
James B. Eldridge	*Middlesex and Worcester*
David M. Rogers	*24th Middlesex*
Carolyn C. Dykema	*8th Middlesex*
Sean Garballey	*23rd Middlesex*
Thomas M. McGee	*Third Essex*
Brian A. Joyce	*Norfolk, Bristol and Plymouth*
Patricia A. Haddad	*5th Bristol*
Carl M. Sciortino, Jr.	*34th Middlesex*
Bruce E. Tarr	*First Essex and Middlesex*
Katherine M. Clark	*Fifth Middlesex*
Paul R. Heroux	*2nd Bristol*

HOUSE DOCKET, NO. 1235 FILED ON: 1/16/2013

HOUSE . . . . . No. 1799

By Representative Malia of Boston and Senator Flanagan, a joint petition (accompanied by bill, House, No. 1799) of Elizabeth A. Malia, Jennifer L. Flanagan and others relative to mental health services for children. Mental Health and Substance Abuse.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to protect children's mental health services.

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

SECTION 1. Chapter 18C of the General Laws is hereby amended in Section 1 by inserting after the definition of “advisory board” the following definitions:—

”Mental health disorder”, any mental, behavioral or emotional disorder described in the most recent edition of the Diagnostic and Statistical Manual or DSM which substantially interferes with or substantially limits the functioning and social interactions of a child or adolescent

SECTION 2.Chapter 18C of the General Laws is hereby further amended in Section 2 by adding at the end thereof the following:—

e. oversee the Children’s Mental Health Ombudsman Program, as described in sections 14 and 15.

SECTION 3. Chapter 18C of the General Laws is hereby further amended by adding at the end thereof the following sections:—

Section 14

(a) The Child Advocate, subject to appropriation or the receipt of federal funds, shall establish a statewide Children’s Mental Health Ombudsman Program for the purpose of advocating on behalf of children with behavioral health disorders, identifying barriers to effective mental health treatment and proposed solutions; monitoring and ensuring compliance with relevant statutes, regulations, rules and policies pertaining to children’s behavioral health services; and of receiving, investigating, resolving through administrative action, as described in

20 paragraph (c), complaints filed by a child or by individuals legally authorized to act on behalf of
21 a child or children or by any individual, organization or government agency that has reason to
22 believe that any entity regulated by the Commonwealth or government agency has engaged in
23 activities, practices and/or omissions that constitute violations of applicable court orders, statutes
24 or regulations or that may have an adverse effect upon the health, safety, welfare and/or rights of
25 children.

26 (b) The Child Advocate shall designate a staff person to act as the director of the
27 ombudsman program who shall be a person qualified by training and experience to perform the
28 duties of the office. The ombudsman shall not be subject to the provisions of Section 9A of
29 Chapter 30 or Chapter 31. The Child Advocate, in consultation with the Secretary of Executive
30 Office of Health and Human Services, Director of the Office of Medicaid, Commissioner of
31 Mental Health and Secretary of the Department of Education, shall establish policies and
32 procedures as needed to facilitate compliance with the provisions of the ombudsman program.
33 These policies and procedures shall include procedures for filing complaints, investigating
34 complaints, and taking action to implement resolutions to these complaints, including the use of
35 state agency enforcement authority to resolve complaints as recommended by the ombudsman.

36 (c) Investigations conducted by the ombudsman shall be subject to Sections 7, 8 and 12
37 of this Chapter.

38 Section 15. In order to ensure that the goals of the ombudsman program as described in
39 section 14 are met:

40 (a) The ombudsman shall monitor the development and implementation of federal, state
41 and local statutes, regulations and policies regarding services and supports for children with
42 mental health disorders, including the education of these children;

43 (b) The ombudsman shall maintain complete records of complaints received, the actions
44 taken, findings, outcomes, and recommendations in response to such complaints and other
45 actions, including those taken by the government and private agency responses to serious
46 complaints;

47 (c) Each month, the ombudsman shall send a report to each government agency about
48 which a complaint or complaints were received by the ombudsman during the past month, listing
49 the complaints involving that agency which were received during the past month, and shall meet
50 regularly with the Child Advocate, the Secretary of Executive Office of Health and Human
51 Services, Director of the Office of Medicaid, the Commissioner of Mental Health and the
52 Secretary of the Department of Education, and shall report on any system-wide problems that the
53 ombudsman has identified, and potential solutions;

54 (d) The Child Advocate shall report annually, within 120 days of the end of the fiscal
55 year, to the Governor, the Speaker of the House, the Senate President, the Joint Committee on

56 Mental Health and Substance Abuse, the Joint Committee on Children, Families and Persons
57 with Disabilities, the Joint Committee on Education, and the House and Senate Clerks on the
58 activities of the Children's Mental Health Ombudsman Program, including complaints that are
59 relevant to the ombudsman an analysis of patterns in complaints made through the ombudsman,
60 and requests for assistance made through the Office of Patient Protection, the Department of
61 Children and Families ombudsman and the Department of Mental Health Investigations
62 Department, and shall make recommendations for legislation, policy or programmatic changes
63 related to the protection of the rights of children with mental health disorders. These reports shall
64 be publicly available and published on the Office of the Child Advocate website.

65 SECTION 4. The Child Advocate shall establish policies and procedures for performing
66 the required activities of the Children's Mental Health Ombudsman Program.