

HOUSE No. 3428

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 juvenile incompetency in the commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/17/2013</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>4/10/2013</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>4/9/2013</i>

HOUSE No. 3428

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 3428) of Kay Khan and others for legislation to establish a juvenile competency review team to study the needs and treatment services available to juveniles who are declared incompetent to stand trial. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act regarding juvenile incompetency in the commonwealth.

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

1 SECTION 1. (a) The juvenile court department in collaboration with the department of
2 mental health, the juvenile court clinics, the department of youth services, the office of the child
3 advocate, the department of development services, and the youth advocacy division of the
4 committee for public counsel services, together known as the juvenile competency review team,
5 is hereby authorized and directed to conduct a comprehensive review of the needs and treatment
6 services available to meet the needs of juveniles who are declared incompetent to stand trial. To
7 complete said review, the juvenile competency review team shall solicit input from the office of
8 probation, the department of children and families, the department of elementary and secondary
9 education, the department of developmental services, the Massachusetts Association of District
10 Attorneys, at least one individual representing the interests of parents and families, one juvenile
11 justice advocate, and any additional persons deemed appropriate. Said review shall be for
12 purposes of identifying and analyzing the following:

13 (i) data pertaining to the numbers and ages of juveniles found incompetent to stand trial,
14 and the basis for their determination;

15 (ii) data pertaining to the number of cases where the juveniles are not detained, and cases
16 where juveniles are sent for evaluation but the competency issues are not resolved;

17 (iii) needs of juveniles who are declared incompetent for the purposes of facilitating
18 services and achieving competency;

19 (iv) existing treatment services the commonwealth utilizes to meet the needs of juveniles
20 who are declared incompetent to stand trial and achieve competency;

21 (v) tools, education, and procedures necessary to better treat juveniles declared
22 incompetent to stand trial and allow them to achieve competency;

23 (vi) best practices and available models of treatment to meet the needs of juveniles who
24 are declared incompetent to stand trial and achieve competency; and

25 (vii) advice and recommendations for addressing unmet needs of juveniles who are
26 declared incompetent to stand trial for the purposes of achieving competency.

27 (b) Within 60 days after the effective date hereof, the juvenile court department on the
28 basis of the findings of said juvenile competency review team shall post to its external website,
29 for 30 days public comment, a proposed work plan to gather information necessary to prepare the
30 report required by this section, in consultation with clinical, philanthropic and advocacy
31 organizations for children, and providers of mental health and substance abuse services for
32 minors. The proposed work plan shall be directed to submit a final report to the legislature and
33 the governor no later than 270 days after the effective date of this act.

34 (c) Within 100 days after the effective date of this act, the juvenile court department on
35 the basis of the findings of said juvenile competency review team shall post its final work plan
36 on its external website.

37 (d) Within 210 days after the effective date of this act, the juvenile court department on
38 the basis of the findings of said juvenile competency review team shall post on its external
39 website, for public comment, a draft report responsive to this section.

40 (e) Within 270 days after the effective date of this act, the juvenile court department on
41 the basis of the findings of said juvenile competency review team shall post on its external
42 website a final report responsive to this section, including a summary of all public comments
43 received, and responses to such comments. The juvenile court department on the basis of the
44 findings of said juvenile competency review team shall also that day provide a copy of its final
45 report to the governor, the president of the senate, the speaker of the house of representatives, the
46 chairs of the joint committees on ways and means, mental health and substance abuse, and
47 children, families and persons with disabilities, and the legislative mental health caucus.

48 SECTION 2. Chapter 218 of the General Laws is hereby amended by adding the
49 following section:-

50 59A. (a) For purposes of this section, “local juvenile competency review team” shall
51 mean the team convened for purposes of section (b) by the division of the juvenile court
52 department that found the juvenile not competent to stand trial consisting of any representatives
53 of the juvenile court clinic, the probation department, the department of youth services, the Local

54 Educational Authority, the department of mental health, the juvenile's attorney, any parent or
55 guardian of the juvenile, the department of children and families only if the juvenile is a
56 consumer and any other persons involved with services for the juvenile.

57 (b) Within 72 hours of a finding of not competent to stand trial, the division of the
58 juvenile court department shall request the convening of the local juvenile competency review
59 team to begin to formulate and implement a service plan for the purposes of achieving
60 competency for the juvenile declared incompetent. The plan shall identify all services, including
61 mental health, substance abuse, educational and social services, necessary to treat the juvenile
62 declared incompetent and shall recommend a place for the juvenile to stay until competency is
63 achieved or until that place is no longer adequate to meet the juvenile's needs. The plan shall
64 designate a case manager or other appropriate care coordinator to ensure collaboration of state
65 agencies, educational authorities, services providers, and any other persons contributing to the
66 service needs of the juvenile declared incompetent. The plan shall establish a mechanism to
67 report on the juvenile's progress until he or she achieves competency. The case manager shall
68 determine the frequency of the report and shall send a copy to those contributing to the service
69 needs of the juvenile declared incompetent.

70 (c) The local juvenile competency review team shall have access to the juvenile's
71 confidential records provided that the team gains the consent of the juvenile defendant's parent
72 or legal guardian and, through the defendant's counsel, the juvenile.