

HOUSE No. 4382

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 31, 2014.

The committee on Children, Families and Persons with Disabilities to whom were referred the petition accompanied by bill, Senate, No. 27) of Thomas M. McGee, Paul J. Donato, Ann-Margaret Ferrante, Sal N. DiDomenico and other members of the General Court for legislation relative to foster care children and the petition (accompanied by bill, House, No. 85) of Nick Collins and others for legislation to enhance opportunities for children in the custody of the Commonwealth, reports recommending that the accompanying bill (House, No. 4382) ought to pass.

For the committee,

KAY KHAN.

HOUSE No. 4382

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to children in the care, protection, and custody of 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 Chapter 6 of the General Laws, as appearing in the 2012 Official
2 Edition, is hereby amended by striking out, in its entirety section 215 and inserting in place
3 thereof the following new section: -

4 (a) There shall be an interagency child welfare task force, hereinafter called the task
5 force. The secretary of health and human services or his designee and the child advocate shall
6 serve as its co-chairs. The task force members shall include the designees of the department of
7 children and families; the department of youth services; the department of transitional assistance;
8 the department of mental health; the department of developmental services; the department of
9 public health; the department of elementary and secondary education; the department of early
10 education and care; the office of medicaid; the executive office of public safety and security; the
11 executive office of labor and workforce development; the division of insurance; the department
12 of housing and community development; the juvenile court; the department of probation, the
13 Children’s Behavioral Health Initiative; the Children’s Trust; the Office of the Child Advocate;
14 the Family and Probate Court; the Committee for Public Counsel Services; seven members
15 appointed by the governor including a parent of a youth formerly in the care of the
16 commonwealth; a youth formerly in the care of the commonwealth; a foster parent; a direct line
17 social worker selected from a list of 6 applicants selected by the statewide advisory council; a
18 child welfare advocate who is not under contract with any of the member agencies; and 2
19 members from provider agencies who offer services to children in the care of DCF to include one
20 agency that provides family stabilization and support services to keep children safely at home
21 and one that provides foster care.

22 (b) The task force may seek advice broadly from consumers and individuals with
23 expertise in child welfare and child development including but not limited to social workers of

24 the department of children and families, medical and mental health practitioners, community
25 based service providers, child welfare advocates including advocates who are not under contract
26 with the department, foster parents and academic institutions. Said consumers and experts may
27 also be asked to serve on any subcommittees of the task force which may be established.

28 (c) The task force shall formulate a comprehensive plan, with annual interagency goals,
29 periodic benchmarks and cost estimates, to recommend coordinated, system-wide strategies to
30 prevent child abuse and neglect, including but not limited to those related to mental health,
31 substance abuse, domestic violence, homelessness and juvenile justice issues. The
32 comprehensive plan shall look forward 5 years or more, shall be updated annually to plan for the
33 ensuing 5-year period, shall assess previous efforts and, if appropriate, shall include legislative
34 and regulatory recommendations.

35 (d) The comprehensive plan shall be filed annually with the governor, the clerks of the
36 senate and the house, the senate and house committees on ways and means, and the joint
37 committee on children, families and persons with disabilities.

38 (e) The comprehensive plan shall include an inventory of the services available in the
39 Commonwealth to address issues that put children at risk of abuse and neglect, identify gaps in
40 such services, and formulate an interagency plan for addressing those gaps in services.. The
41 purpose of this plan shall be to ensure that, to the extent possible, the Commonwealth's agencies
42 work in coordination to prevent child abuse and neglect before children and families need to
43 enter the DCF system and to prevent the need for out-of-home placements.

44 In furtherance of its mission, the task force:

45 (1) shall implement a procedure for children's impact statements in which, before a
46 change in eligibility for or a reduction in services that may prevent abuse and neglect is
47 implemented, the agency whose services would be restricted or reduced would be required to
48 issue a children's impact statement projecting the impact on child safety, and on DCF's caseload,
49 as a result of such reduction in services; and

50 (2) may examine the status of and address other issues related to child welfare.

51 SECTION 2. Section 2 of chapter 18B of the General Laws, as so appearing, is
52 hereby amended by inserting after the word "activities", in line 15, the following words:- " ,
53 including, but not limited to, the opportunity for foster children to participate in: school based
54 sports, arts, music or theater groups or any other extra-curricular school based activity, and social
55 or educational activities offered through community-based programs".

56 SECTION 3. Said section 2 of said chapter 18B is hereby further amended by
57 inserting after the word "services", in line 24, the following words:- " , with priority for camping

58 services being given to those families without the means to send children to camp and children
59 whose past trauma suggests they would most benefit from camping services”.

60 SECTION 4. Said section 2 of said chapter 18B is hereby further amended by
61 striking out, in line 31, the word “; and”.

62 SECTION 5. Said section 2 of said chapter 18B is hereby further amended by
63 striking out, in line 33, the word:- “.” and inserting in place thereof the following:- “ (18) online
64 materials through the department’s website to provide foster parents with the knowledge and
65 skills needed to care for children in foster care who have experienced trauma; (19) culturally
66 competent supportive services for pre-adoptive and adoptive families to ensure success of
67 permanency, including, subject to appropriation, allowing the continuation of services provided
68 from multiple agencies to occur simultaneously.”

69 SECTION 6. Section 7 of said chapter 18B, as so appearing, is hereby further
70 amended by adding at the end thereof the following 3 subsections:-

71 (o) The commissioner, in consultation with the child advocate and other agencies
72 the commissioner deems relevant, including, but not limited to, the Massachusetts District
73 Attorneys Association, the Massachusetts chapter of the National Association of Social Workers,
74 the Massachusetts Medical Society, the Massachusetts Teachers’ Association and private child
75 service providers shall, if available, adapt, implement and maintain from another state agency or
76 from any suitable program already in use in another state a free standardized online training
77 program to be completed by all mandated reporters as defined in section 21 of chapter 119, and
78 as referenced in section 51A(k) of chapter 119; provided, however, that if the commissioner
79 cannot find an existing program to adapt to this purpose, then the commissioner shall create,
80 implement, maintain and update such an online training program.

81 (p) The commissioner of the department of elementary and secondary education,
82 in consultation with office of the child advocate and the department of children and families,
83 shall develop a statewide plan for the educational stability of children placed in the care or
84 custody of the department of children and families and young adults who have signed voluntary
85 placement agreements with the department of children and families. The plan shall at a minimum
86 include: (i) a procedure to allow foster children to continue their education in the school they
87 were enrolled in before entering foster care for the remainder of the current school year if such
88 placement is determined to be in their best interest; (ii) a process to minimize the loss of learning
89 time due to changing schools during the academic year; (iii) a procedure for transferring
90 academic and other records expediently when a foster child is placed in a new school; (iv) a
91 process for designating foster care education liaisons to facilitate placement, records transfer,
92 calculation of credits earned, and other transition issues for foster children; (v) a process for
93 determining federal, state and local funding sources for transportation of students to their school
94 of origin; (vi) an assurance that children in care attend school on a regular basis as required by

95 law; (vii) recommendations for administration and legislative actions, including, but not limited
96 to, legislation that requires local school districts to adhere to different residency requirements for
97 relocated foster children; (viii) an assurance that the department of elementary and secondary
98 education will coordinate with the appropriate local educational authority to identify how the
99 child could remain in the educational settings in which the child was enrolled at the time of
100 placement or, if it is determined that it is not in the child's best interest to remain in that setting,
101 the local educational authority shall immediately enroll the child in another educational setting
102 during the child's placement and the department of elementary and secondary education shall
103 ensure that the child's educational records are transferred to the new educational setting.

104 Not later than 12 months after the effective date of this act, the plan shall be filed
105 with the clerks of the house of representatives and senate, the joint committee on children,
106 families and persons with disabilities, the joint committee on education, and the house and senate
107 committees on ways and means.

108 SECTION 7. Chapter 18C of the General Laws, as so appearing, is hereby
109 amended by inserting after section 4 the following section:-

110 Section A. There shall be a child abuse and neglect expert review panel,
111 hereinafter referred to as the panel, under the purview of the child advocate, who shall serve as
112 chair. The members of the panel shall include: the commissioner of the department of children
113 and families, the executive director of the Children's Trust Fund, and 2 members selected by the
114 child advocate to include: a medical expert in the field of pediatrics and a social worker with a
115 minimum of 10 years direct case work experience. The panel shall review the repeated entry of
116 children into the care of the department of children and families. Any open or closed cases
117 within a 12 month period for the same child or the same family unit shall constitute repeated
118 entry. The panel shall determine if any actions can be taken to protect the child from further
119 harm or if any agency regulations should be modified. The panel's review and determinations
120 shall be kept confidential. The panel shall report on any trends that are cycling through families,
121 agency service gaps, and recommendations for policy changes to rectify the repeated abuse and
122 neglect of children as part of the annual report as established in section 10 of this chapter.

123 The child advocate may convene a public meeting or oversight hearing to
124 discuss any trends in child welfare, gather the public's input or determine if further actions
125 should be taken to improve the lives of the children in the care and custody of the
126 commonwealth. Any findings shall be included in the annual report as established in section 10
127 of this chapter.

128

129 SECTION 8. Section 2DDDD of chapter 29 of the General Laws, as so appearing, is
130 hereby amended by striking, in the final clause, the word "and"; and further amended, at the end
131 thereof, by inserting the following clause:- "and (11) summer enrichment programs for youth in

132 the care and custody of the commonwealth to prevent school dropout and encourage new
133 creative thinking and engagement in fields vital to the commonwealth's economic growth.”

134

135 SECTION 9. Section 2 of chapter 71B of the General Laws, as so appearing, is hereby
136 amended by inserting at the end thereof the following paragraph:-

137 The department of elementary and secondary education shall promulgate
138 regulations (i) to allow foster children to continue their education in the school they were
139 enrolled in before entering foster care for the remainder of the current school year if such
140 placement is determined to be in their best interest; (ii) to minimize the loss of learning time due
141 to changing schools during the academic year; and (iii) for transferring academic and other
142 records expediently when a foster child is placed in a new school. Academic and other records
143 shall include an individualized education plan and shall be transferable immediately to any other
144 licensed school and school district within the commonwealth, unless a child's individualized
145 education plan is subject to reevaluation in pursuant to this section.

146

147 SECTION 10. Section 7 of chapter 76 of the General Laws, as so appearing, is
148 hereby amended by inserting at the end thereof the following paragraph:-

149 The department of elementary and secondary education, in consultation with the
150 department of children and families, shall promulgate regulations requiring local school districts
151 to ensure that any school age child placed in foster care or group care outside of their home town
152 shall have their school records transferred within 2 business days to ensure the continuation of
153 the child's learning. Any absences the child endures due to a school transfer, court appearance or
154 any meeting regarding their foster care status shall not be counted against the child in any matter
155 of graduation or in any child requiring assistance application.

156 SECTION 11. Said section 7 of chapter 76, as so appearing, is hereby further amended
157 by inserting at the end thereof the following paragraph:-

158 Notwithstanding section 5 of this chapter, any school age child removed from the home
159 of the child's parents or guardians under chapter 119, sections 23, 24, 25, 26, 39G or 39H and
160 placed in the custody of the department of children and families or another custodian, may
161 continue to attend the school in which the child was enrolled at the time of removal (“the school
162 of origin”) for the remainder of the current school year. The right to attend the school of origin
163 shall apply to any subsequent placement for the remainder of that school year. If the child's
164 custodian determines, in consultation with the child and the child's school, that it is not in the
165 best interest of the child to remain in the school of origin, the child shall be immediately and
166 appropriately enrolled in the new school. The child's custodian shall promptly notify the child's

167 attorney and the school of origin of the decision. Where the child's custodian is the department
168 of children and families, and the department determines that it is in the child's best interest to
169 enroll the child in a school in the district in which the child is placed, the department shall
170 provide the child's attorney with written notice of the decision. This notice shall identify the
171 factors that form the basis of the decision. Nothing in this section shall be construed to detract
172 from any other right that a child may have under any other law.

173 SECTION 12. Section 2 of chapter 111G of the General Laws, as so appearing,
174 is hereby amended by inserting at the end thereof the following paragraph:-

175 The department, in consultation with the commissioner of children and families
176 and the division, shall, subject to appropriation, review and revise the early intervention
177 operational standards to ensure that children under the age of 3, who have an open protective
178 case with the department of children and families, be deemed categorically eligible for early
179 intervention services.

180

181 SECTION 13. Paragraph (7) of subsection (a) of section 23 of said chapter 119,
182 as so appearing, is hereby amended by inserting after clause (i) the following 4 subsections:-

183 (j) The department, in consultation with the area boards created in section 13 of
184 chapter 18B and the statewide advisory council created in section 16 of chapter 18B, shall create
185 an age-appropriate, culturally-appropriate, life-skills curriculum for children in the foster care
186 system; provider, however, the department may modify existing resources for this purpose. The
187 curriculum shall begin for children age 11 and continue through age 18 and shall include, but not
188 be limited to, the following areas: interpersonal skills; completing household duties; running a
189 home; grocery shopping; opening a bank account; interviewing for jobs and/or college; filling
190 out job applications; and managing bills. The curriculum shall be approved by the secretary of
191 health and human services and the child advocate and shall include a timeframe and cost analysis
192 of implementation within 3 years of implementation of this act.

193 (k) Each child, age 7 or older, shall be given a meaningful opportunity to
194 participate in the development of the case plan and to state the child's preference(s) for initial
195 and any subsequent placement or custody. The department shall ask any child, age 7 or older, to
196 provide the names of any kin or other adults with whom the child has a relationship. Further, the
197 department shall ask any child, age 7 or older, in private, to state the child's preference(s) for
198 initial and any subsequent placement or custody.

199 Each parent shall also be asked to provide the name of kin or other adult with
200 whom the child or the family has a relationship who could serve as a potential placement for the
201 child. Each parent shall also be given a meaningful opportunity to participate in the development

202 of the case plan and to state the parent's preference(s) for initial and any subsequent placement
203 or custody of the child.

204 If the department has, or is seeking, custody of a child, the department shall first
205 investigate the possibility of placing the child in accordance with the placement preferences of
206 the child and/or parent(s).The department shall complete that investigation before placing the
207 child and make placement changes as appropriate based on the outcome of that investigation.
208 Specific reasons for placement decisions must be documented in writing in the case file,
209 including the reasons for rejecting placements identified by the child and/or parent(s).

210

211 (l) Each child shall have one of the child's social workers present at any placement
212 planning meeting, interview, attorney meeting or any other meeting pertaining to the future
213 living standards or placement of the child. Each child shall also have the right to be actively
214 involved in the development of the child's permanency plan, shall be given every opportunity to
215 ask questions and offer input as to the outcome of the child's permanency plan and shall fully
216 understand the decisions being made and the options offered to the child during the permanency
217 planning process.

218 (m) The department shall provide to each child a free credit report, pursuant to
219 the fair credit reporting act, from each of the 3 major credit bureaus at the time of entry or re-
220 entry into care and annually thereafter, for the time that said child remains in custody of the
221 commonwealth, to determine whether identity theft has occurred and to correct all erroneous
222 entries on said child's credit record. If the credit report displays other negative or erroneous
223 items, the commonwealth shall provide the necessary services to correct said child's credit
224 record, including, but not limited to, legal and other advocacy fees.

225 The department shall: (i) provide the child's attorney with a copy of each credit
226 report within 30 days of obtaining the credit report results; (ii) work with the child's attorney to
227 notify the district attorney, for the district in which the child resides, no later than 30 days after
228 receipt of the credit report in order to correct any erroneous items; and (iii) make each annual
229 credit report request not later than 60 days after the child's birthday, or 60 days after the child's
230 entry or re-entry into custody.

231 (n) The department shall ensure that the placement of a child in foster care takes into
232 account the appropriateness of the current educational setting and the proximity to the school in
233 which the child is enrolled at the time of each placement; coordinate with the appropriate local
234 educational agencies to ensure that the child remains in the school which the child is enrolled in
235 at the time of each placement; or, if remaining in such school is not in the best interests of the
236 child, ensure that the child is immediately and appropriately enrolled in a new school and that all
237 of the child's educational records have been provided to the school.

238 SECTION 14. Section 3 of chapter 210 of the General Laws, as most recently
239 amended by chapter 93 of the acts of 2011, is hereby amended by inserting at the end thereof the
240 following paragraph:-

241 (e) If at least two years have passed since the court entered an order under this
242 chapter or chapter 119 terminating parental rights, the child whose parents were the subject of
243 that order may file a motion requesting that the court vacate the order with respect to one or both
244 of the child's former parents, but only if all of the following apply:

245 i. The child is at least 12 years of age;

246 ii. The court has determined after a hearing under section 29B of chapter 119 that
247 adoption is no longer the permanency plan for the child; and

248 iii. Either the child has not been adopted or, if the child has been adopted, a court has
249 entered an order terminating the parental rights of the child's adoptive parents or the adoptive
250 parents have voluntarily surrendered their parental rights.

251 The child shall sign the motion in the absence of a showing of good cause as to why the
252 child could not do so. The court shall order that an evidentiary hearing be held and give notice of
253 the hearing to whichever of the child's former parents the motion relates, with notice being
254 provided in the manner prescribed for a petition filed under section 24. Neither parent shall be
255 considered a party for the purpose of the motion, nor shall either have an independent right to be
256 heard, though a parent's testimony may be offered into evidence if the parent is called as a
257 witness by a party. The court shall grant the motion if it determines by a preponderance of
258 evidence that vacating the order terminating parental rights is in the child's best interests. The
259 court shall specify in writing the factual basis for its determination. As soon as practicable after
260 granting the motion, the court shall enter a new dispositional order under section 26(b), provided
261 that the order is in the best interests of the child. For purposes of this paragraph, the term "child"
262 includes a young adult as defined in section 21 of chapter 119.

263

264 SECTION 15. The secretary of the executive office of health and human
265 services shall work with the secretary of the executive office of labor and workforce
266 development to create individual savings accounts funded by a percentage of the child's
267 supplemental security income for each youth, age 15 and older, who is in the custody of the
268 department and develop a percentage scale of annual deposit requirements based the child's
269 supplemental security income and age of the child with a larger percentage being deposited as
270 the child ages. Each child for which an individual savings account is created shall be allowed to
271 retain the balance of the child's personal account upon release or upon aging out of the custody
272 of the commonwealth.

273 SECTION 16. Section 21 of this act shall apply regardless of whether the two
274 year requirement is met before, on, or after the effective date of this act.

275 SECTION 17. Chapter 71 of the General Laws, as appearing in the 2012 Official Edition,
276 is hereby amended by adding the following new section:-

277 Section 54. School nurses shall be trained in child abuse, neglect and mental health as
278 part of their responsibilities.

279 SECTION 18. Chapter 119 of the General Laws, as appearing in the 2012 Official
280 Edition, is hereby amended by adding the following new section:-

281 Section 21B. Each area office shall have a Nurse-Practitioner as part of the department's
282 assessment and medical service team. The Nurse-Practitioner shall be trained in mental health,
283 domestic violence and substance abuse as well as address the wellness needs of the child and
284 family.