

HOUSE No. 1172

The Commonwealth of Massachusetts

PRESENTED BY:

F. Jay Barrows

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 enhancing services for juveniles.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>1/16/2015</i>
<i>Matthew Cook</i>	<i>9 Francis Ave Mansfield, MA</i>	<i>1/16/2015</i>

HOUSE No. 1172

By Mr. Barrows of Mansfield, a petition (accompanied by bill, House, No. 1172) of F. Jay Barrows and Matthew Cook relative to court approved services for juveniles. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act enhancing services for juveniles.

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. Section 55B of chapter 119 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by inserting after the second paragraph the following
3 paragraph:-

4 Notwithstanding any general or special law to the contrary, the court may, with the
5 consent of the child’s parents or legal guardian, require as part of (i) any specific terms or
6 conditions imposed upon a child by a plea submitted and acted upon by the court or specific
7 disposition imposed by the court, or (ii) any terms of probation pursuant to the provisions of
8 section 57, that the child shall undergo diagnostic study and counseling through the department
9 of youth services, any court clinic, or the department of mental health. The court may further
10 require, as part of such terms or conditions of such plea, disposition, or probation, that the child
11 shall participate in the statewide community service program established pursuant to section
12 67D; provided, that the child does not have a recent record of violent conduct; provided further,
13 that the child is not alleged to have violated section 13B, 13B ½, 13B ¾, 22A, 22B, 22C, 23,

14 23A, 23B or 50 of chapter 265; and provided further, that the community service program agrees
15 to accept the child.

16 SECTION 2. The first paragraph of section 58 of said chapter 119, as most recently
17 amended by section 9 of chapter 84 of the acts of 2013, is hereby further amended by striking out
18 the third sentence and inserting in place thereof the following sentence:- Said probation may
19 require that the child participate in the statewide community service program established
20 pursuant to section 67D; provided, that the child does not have a recent record of violent
21 conduct; provided further, that the child is not alleged to have violated section 13B, 13B $\frac{1}{2}$, 13B
22 $\frac{3}{4}$, 22A, 22B, 22C, 23, 23A, 23B or 50 of chapter 265; and provided further, that the community
23 service program agrees to accept the child.

24 SECTION 3. The fourth paragraph of said section 58 of said chapter 119, as appearing in
25 the 2012 Official Edition, is hereby amended by adding the following sentence:- Any such
26 sentence imposed upon a youthful offender may require that the youthful offender participate in
27 the statewide community service program established pursuant to section 67D; provided, that the
28 youthful offender does not have a recent record of violent conduct; provided further, that the
29 youthful offender is not alleged to have violated section 13B, 13B $\frac{1}{2}$, 13B $\frac{3}{4}$, 22A, 22B, 22C, 23,
30 23A, 23B or 50 of chapter 265; and provided further, that the community service program agrees
31 to accept the youthful offender.

32 SECTION 4. Section 67 of said chapter 119, as amended by section 17 of chapter 84 of
33 the acts of 2013, is hereby further amended by inserting after the second sentence the following 6
34 sentences:-

35 Such child shall, immediately upon arrest, have the right to the assistance of legal counsel
36 and shall be immediately informed of this right. The officer in charge of the police station or
37 town lockup shall assess whether the child is a danger to himself or herself or a danger to the
38 public. If the child is not such a danger, the child shall be detained in an unlocked room with an
39 officer monitoring the room; provided, that upon an attempt to leave such unlocked room or the
40 police station or town lockup, the child may be detained in a locked detention facility that
41 otherwise satisfies the requirements of this section. If the child is a danger to himself or herself,
42 or if the officer in charge of the police station or town lockup reasonably believes that the child is
43 in need of medical attention, the child shall be detained and evaluated pursuant to section 67A.
44 No child detained pursuant to this section may be questioned by an officer prior to the arrival of
45 the child's parent, guardian or the person with whom the child resides. If a child is to be
46 questioned following the arrival of such parent, guardian or person, the child's legal counsel
47 must be present for any questioning unless the child is between 14 and 18 years of age and,
48 following at least 30 minutes of meaningful consultation with a parent, guardian or person with
49 whom the child resides, the child waives his or her right to counsel in writing, with the
50 accompanying signature of said parent, guardian or person with whom the child resides.

51 SECTION 5. Said chapter 119 of the General Laws is hereby amended by inserting after
52 section 67 the following section:-

53 Section 67A. Whenever an officer in charge of the police station or town lockup
54 determines, pursuant to section 67, that a child arrested as provided in said section 67 is a danger
55 to himself or herself, or reasonably believes that the child is in need of medical attention or
56 psychiatric evaluation, the officer shall immediately cause the child to be transported to the
57 nearest hospital for medical attention and psychiatric evaluation, as necessary; provided, that

58 except in the case of an emergency, no such treatment or evaluation shall occur without the
59 consent of the child's parent or legal guardian.

60 SECTION 6. Section 68A of chapter 119 of the General Laws, as most recently amended
61 by section 19 of chapter 84 of the acts of 2013, is hereby further amended by striking out, the
62 first and third time it appears, the word "may" and inserting in place thereof, in each instance, the
63 following word:- shall.

64 SECTION 7. Said section 68A of said chapter 119, as so appearing, is hereby further
65 amended by inserting after the word "study", each time it appears, the following words:- and any
66 necessary counseling or treatment.

67 SECTION 8. Said chapter 119 is hereby further amended by inserting after section 68C
68 the following section:-

69 Section 68D. The department of youth services shall develop a statewide community
70 service program for children adjudicated as delinquent children or youthful offenders who: (i) do
71 not have a recent record of violent conduct, and (ii) are not alleged to have violated section 13B,
72 13B ½, 13B ¾, 22A, 22B, 22C, 23, 23A, 23B or 50 of chapter 265. The department of youth
73 services may charge a reasonable fee for the program, which shall be paid by the child's parents
74 or legal guardian; provided, that the department shall waive the fee if, in the department's
75 discretion, the fee would create an undue hardship for the child's parents or legal guardian. The
76 department of youth services shall establish rules and regulations implementing the requirements
77 of this section.