

HOUSE No. 87

The Commonwealth of Massachusetts

PRESENTED BY:

Tricia Farley-Bouvier and Aaron Vega

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 establishing the Massachusetts foster care review office.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/19/2017</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>1/19/2017</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>	
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/24/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	

HOUSE No. 87

By Representatives Farley-Bouvier of Pittsfield and Vega of Holyoke, a petition (accompanied by bill, House, No. 87) of Tricia Farley-Bouvier, Aaron Vega and others relative to establishing the Massachusetts foster care review office. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing the Massachusetts foster care review office.

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 18B of the General Laws is hereby amended by striking section
2 6A.

3 SECTION 2. The General Laws are hereby amended by inserting after Chapter 18B the
4 following

5 chapter: CHAPTER 18D. FOSTER CARE REVIEW OFFICE.

6 Section 1. As used in this chapter, the following words shall have the following
7 meanings, unless

8 otherwise noted:

9 “Board”, the foster care review office governing board.

10 “CASA”, court appointed special advocates.

11 “Council”, foster care review office interdisciplinary council.

12 “Department”, the department of children and families.

13 “Foster care placement”, all out-of-home placement of children, youth or young adults by
14 the department

15 whether voluntarily or by court assigned custody.

16 “FCRO”, the foster care review office created pursuant to this chapter.

17 “Foster care review”, an administrative review of the status of each child, youth or young
18 adult who is in

19 foster care placement.

20 “Local panel”, a local foster care review panel of trained citizen volunteers and FCRO
21 staff created

22 pursuant to this chapter.

23 “Parties”, all parties involved in a specific child, youth or young adult case.

24 “Permanency”, a legal, permanent family living arrangement.

25 “Secretary”, the secretary of the executive office of health and human services

26 Section 2. (a) There shall be an office of foster care review, which shall be independent
27 of any

28 supervision or control by any executive agency. The FCRO shall be established as an
29 independent state

30 agency, overseen and supported by the board.

31 (b) The FCRO shall conduct foster care case reviews every six months of every child in

32 foster care

33 placement to make determinations and recommendations regarding the placement and

34 progress towards

35 permanency; provide information and direct reporting to the legislature, the department,

36 the governor, the

37 secretary, the chief justices of the juvenile and the probate and family courts, and the

38 public regarding the

39 foster care system in Massachusetts; make recommendations regarding foster care policy;

40 and ensure

41 accountability and transparency regarding the foster care system.

42 (1) The FCRO shall designate local panels of trained citizen volunteers to conduct foster

43 care case

44 reviews for every child in foster care placement at least every six months while in

45 placement.

46 (2) The FCRO shall create and implement the following:

47 i. Policies and procedures regarding the duties of FCRO staff including the scheduling

48 and

49 conduct of case reviews, advanced notice to parties to the case, development of
50 individual case review reports including findings and recommendations, dissemination of
51 individual case review reports to the parties, and follow-up of individual cases in
52 accordance with FCRO policies and procedures;

53 ii. Guidelines regarding citizen volunteer qualifications and recruitment;

54 iii. Training programs for citizen volunteers which shall include an initial training
55 program

56 and periodic in-service training programs;

57 iv. Policies and procedures for local panels in the conduct of individual case reviews;

58 v. Policies and procedures for FCRO regarding the conduct of reviews, follow-up of
59 individual cases between reviews, communication with parties, structure, format and
60 content of individual case review reports and access to data and information;

61 vi. A central record-keeping system for all local panel files, including individual case
62 reviews and aggregate data;

63 vii. Content and format of periodic and annual FCRO aggregate reports.

64 (3) The FCRO shall provide periodic and annual aggregate reports to the legislature,
65 governor, secretary,

66 the department, the chief justices of the juvenile and the probate and family courts and
67 the public.

68 (4) The FCRO shall have access to all relevant information regarding any child, youth or
69 young adult

70 eligible for foster care case review including, but not limited to, data, records and case
71 files provided to

72 the FCRO by the department.

73 (5) Individual case review reports shall be provided to all parties to the legal case for
74 judicial

75 consideration and for the purpose of permanency planning.

76 (c) The FCRO shall be the only entity that conducts periodic, administrative foster care
77 case reviews as

78 required by the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-
79 272).

80 Section 3. (a) The board shall hire an FCRO executive director.

81 (b) Any person appointed to the position of executive director shall be selected without
82 regard to political

83 affiliation and on the basis of integrity and demonstrated ability in leadership,

84 organizational

85 management, collaboration, and child welfare, advocacy or law.

86 (c) The executive director may be removed from office for cause by a majority vote of
87 the board. Such

88 cause may include substantial neglect of duty, gross misconduct or conviction of a crime.

89 The cause for

90 removal shall be stated in writing and shall be sent to the governor, attorney general,
91 auditor and clerks of

92 the senate and house of representatives at the time of removal and shall be a public
93 document.

94 Section 4. (a) The board shall have a maximum of thirteen members, geographically
95 diverse and

96 appointed by a majority vote of the governor, attorney general and auditor. Membership
97 shall include the

98 child advocate or designee, the department commissioner or designee, a representative of
99 the Children's

100 League of Massachusetts, a Massachusetts CASA program director, a state educational

101 administrator/superintendent, a legal representative of the child and family division of the
102 committee for

103 public counsel services, a pediatrician with expertise in the area of adverse childhood
104 experiences, a

105 representative of organized labor to be designated by the president of the collective
106 bargaining unit that

107 represents the social workers of the department, a foster parent, an adult foster care
108 alumni, one former

109 department staff reviewer, and two current citizen volunteer reviewers with a minimum
110 of five years

111 experience as a reviewer.

112 (b) The members shall have no pecuniary interest in the foster care system and shall not
113 be employed by

114 the FCRO, the executive office of health and human services, the department, a child
115 welfare agency

116 providing services on behalf of the department, the juvenile court or the probate and
117 family court.

118 (c) The terms of the members shall be for three years, with the exception of the child
119 advocate who may

120 serve as long as he/she serves as the child advocate. Members shall not serve more than
121 two consecutive

122 terms, except that members shall serve until their successors have been appointed.

123 (d) The Board shall meet at least four times each calendar year. Each member shall attend
124 at least two

125 meetings each calendar year and shall be subject to removal for failure to attend at least
126 two meetings

127 unless excused by a majority of the members of the board.

128 (e) The board shall:

129 (1) Hire and fire the executive director for the FCRO;

130 (2) Annually set the salary of the executive director; and

131 (3) Support and facilitate the work of the FCRO.

132 (f) The executive director shall be the administrative head of the FCRO and shall devote
133 full-time to the

134 duties of the FCRO. The executive director shall provide information and reporting
135 services, provide

136 analysis of information obtained, and oversee foster care case reviews and tracking. The
137 executive

138 director shall, through information analysis and with the assistance of the board, (1)
139 determine key issues

140 of the foster care system and make recommendations to improve the system, (2) identify
141 key areas of

142 strength and (3) make policy recommendations.

143 (g) The executive director of the FCRO shall be responsible for all human resource
144 planning and
145 management; for the duties of the office as provided by law, including the annual
146 aggregate report and
147 any periodic reporting; data collection and analysis; and oversight and training of local
148 panels of citizen
149 volunteers. The executive director shall meet at least monthly with the council to review
150 and address
151 issues and concerns regarding services for children, youth and families as well as
152 individual case
153 challenges that require escalation to address or resolve.

154 Section 5. (a) The FCRO shall designate local panels of citizen volunteers, in
155 geographical locations that
156 correspond with the department's service areas, to conduct foster care case reviews. The
157 number of panels
158 required is determined by the FCRO in accordance with the number of children, youth
159 and young adults
160 in foster care placement within each service area. The executive director of the office
161 shall create and

162 implement citizen volunteer recruitment efforts and select citizen volunteers from local
163 areas to serve on
164 local panels. A person employed by the FCRO, the department, a child welfare agency or
165 juvenile and
166 probate/family courts shall not be appointed to a local panel with the exception of a foster
167 care or kinship
168 individual.

169 (b) Each local panel, comprised of one FCRO staff reviewer and two trained citizen
170 volunteers, shall

171 conduct individual foster care case reviews in accordance with the policies and
172 procedures created and
173 implemented by the FCRO.

174 Section 6. (a) The foster care case review shall be conducted to determine:

175 (1) Necessity, appropriateness and safety of the child/youth/young adult's current
176 placement;

177 (2) Extent of the parties' compliance with the service plan;

178 (3) Extent of progress made toward alleviating or mitigating the causes necessitating the
179 placement;

180 (4) Extent to which services in the plan are being provided and the identification of any

181 barriers to receiving the needed services;

182 (5) Progress made toward the permanency goal;

183 (6) Whether the permanency goal should be amended;

184 (7) Projected date by which child may be in a permanent placement;

185 (8) Goals for the next six months;

186 (9) Additional findings and recommendations in accordance with the child/youth/young
187 adult's best interest.

188 (b) The local foster care case review meeting shall be facilitated by a FCRO staff
189 reviewer who is
190 responsible for completing the individual case review report of findings and
191 recommendations.

192 (c) Anyone with a role in achieving the permanency goal for the child, youth or young
193 adult is invited to
194 the review. The individual case review report shall be submitted to the department, the
195 juvenile or
196 probate/family court, and all other legal parties to the case within thirty days after the
197 foster care case
198 review.

199 (d) The department will comply with the FCRO individual case review findings and
200 recommendations,
201 subject to an appeals process developed by the FCRO and the department.

202 Section 7. (a) The FCRO interdisciplinary council shall include commissioner level or
203 designee

204 representation of the department, the office of the child advocate, developmental services
205 (DDS),

206 elementary and secondary education (DOE), mental health (DMH), public health (DPH),
207 transitional

208 assistance (DTA), youth services (DYS) and the Massachusetts rehabilitation commission
209 (MRT).

210 The council shall be chaired by the FCRO executive director and shall convene at least
211 monthly. The

212 FCRO shall ensure that appropriate services are being delivered in the best interest of the
213 child, youth or

214 young adult.

215 (b) The council shall:

216 (i) Address and resolve case specific issues that have been elevated by the FCRO; and

217 (ii) Address systemic issues impacting progress towards permanency and services
218 focused on the
219 best interest of children, youth and young adults in foster care placement brought to the
220 council's
221 attention by the FCRO executive director.

222 Section 8. (a) The department shall provide unrestricted access of the FCRO to any and
223 all information
224 pertaining to the child/youth/young adult's needs including electronic and hard copy
225 records, reports, and
226 materials, specifically department records including evaluations conducted by external or
227 independent
228 providers and court evaluations.

229 (b) The department shall notify the FCRO of a child/youth/young adult removal from
230 home, placement,
231 change to placement or case closure no later than two weeks from the date of the
232 occurrence.

233 (1) The FCRO shall be bound by any limitations on the use or release of information
234 imposed by law
235 upon the party furnishing such information.

236 Section 9. (a) The FCRO executive director shall develop internal procedures, including
237 staffing and
238 budget, subject to appropriation, appropriate for the effective performance of his/her
239 duties and to carry
240 out the functions of the office.

241 Section10. (a) The FCRO executive director shall report annually to the governor, the
242 president of the
243 senate, the speaker of the house of representatives, the joint committee, the chief justices
244 of the juvenile
245 and the probate and family courts, the secretary and the commissioner of the department
246 on the activities
247 of the FCRO, including but not limited to statistics and analysis of aggregate data from
248 the foster care
249 reviews regarding strengths, issues, policy concerns, and problems which have come to
250 the attention of
251 the FCRO and the executive director from analysis of the aggregate data. The executive
252 director shall
253 make recommendations to address the issues, concerns and problems identified.

254 (b) The report shall be made public.

255 Section 11. (a) No person employed by or contracted by or volunteering for the FCRO
256 shall be subject to

257 suit directly, derivatively or by way of contribution or indemnification for any civil
258 damages under the

259 laws of the commonwealth resulting from any act or omission performed during or in
260 connection with the

261 discharge of his/her duties within the scope of employment or appointment, unless such
262 act or failure to

263 act was committed with gross negligence, maliciously or in bad faith.