

SENATE No. 45

The Commonwealth of Massachusetts

PRESENTED BY:

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 strengthening protection of children in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>2/2/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/2/2017</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>2/3/2017</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>2/3/2017</i>

SENATE No. 45

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 45) of Jennifer L. Flanagan, Kay Khan, Joseph D. McKenna, James B. Eldridge and other members of the General Court for legislation to strengthen protection of children in the Commonwealth. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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

An Act strengthening protection of children 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. Section 7 of Chapter 18B, is hereby amended by adding at the end thereof
2 the following subsection: -

3 “(o) The commissioner, in consultation with the child advocate and other agencies the
4 commissioner deems relevant, including, but not limited to, the Massachusetts District Attorneys
5 Association, the Massachusetts chapter of the National Association of Social Workers, the
6 Massachusetts Medical Society, the Massachusetts Teachers’ Association, the American
7 Federation of Teachers Massachusetts, and private child service providers shall, if available,
8 adapt, implement and maintain from another state agency or from any suitable program already
9 in use in another state a free standardized online training program to be completed by all
10 mandated reporters as defined in section 21 of chapter 119, and as referenced in section 51A(k)
11 of chapter 119; provided, however, that if the commissioner cannot find an existing program to

12 adapt to this purpose, then the commissioner shall create, implement, maintain and update such
13 an online training program.”

14 SECTION 2. Chapter 18C of the General Laws, is hereby amended by inserting after
15 section 4 the following section:-

16 “Section 4A. There shall be a child abuse and neglect expert review panel, hereinafter
17 referred to as the panel, under the purview of the child advocate, who shall serve as chair. The
18 members of the panel shall include: the commissioner of the department of children and families,
19 the executive director of the Children’s Trust Fund, and 4 members selected by the child
20 advocate to include: a medical expert in the field of pediatrics, an infant mental health specialist,
21 a social worker with a minimum of 10 years direct case work experience, and an individual
22 representing parents involved with the Department. The panel shall review the repeated entry of
23 children into the caseload of the department of children and families. Any open or closed cases
24 within a 12 month period for the same child or the same family unit shall constitute repeated
25 entry. The panel shall determine if any actions can be taken to protect the child from further
26 harm or if any agency regulations should be modified. The panel’s review and determinations
27 shall be kept confidential. The panel shall report on any trends that are cycling through families,
28 agency service gaps, and recommendations for policy changes to rectify the repeated abuse and
29 neglect of children as part of the annual report as established in section 10 of this chapter.

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

34 SECTION 3. Section 7 of chapter 76 of the General Laws, as so appearing, is hereby
35 amended by inserting at the end thereof the following paragraph:-

36 Notwithstanding section 5 of this chapter, any school age child removed from the home
37 of the child’s parents or guardians under chapter 119, sections 23, 24, 25, 26, 39G or 39H and
38 placed in the custody of the department of children and families or another custodian, may
39 continue to attend the school in which the child was enrolled at the time of removal (“the school
40 of origin”). The right to attend the school of origin shall apply to any subsequent placement. If
41 the child’s custodian determines, in consultation with the child and the child’s school, that it is
42 not in the best interest of the child to remain in the school of origin, the child shall be
43 immediately and appropriately enrolled in the new school. The child’s custodian shall promptly
44 notify the child’s attorney and the school of origin of the decision. Where the child’s custodian is
45 the department of children and families, and the department determines that it is in the child’s
46 best interest to enroll the child in a school in the district in which the child is placed, the
47 department shall provide the child’s attorney with written notice of the decision. This notice shall
48 identify the factors that form the basis of the decision. Nothing in this section shall be construed
49 to detract from any other right that a child may have under any other law.

50 SECTION 4. Section 22 of Chapter 119, as so appearing, is hereby amended by inserting
51 after the first paragraph the following paragraph: -

52 Any foster home licensee who fails to notify the department of a change in household
53 status shall pay the Department a fine of \$500. The department shall provide notice of this
54 provision in its Massachusetts approach to partnerships in parenting curriculum.

55 SECTION 5. Paragraph (7) of subsection (a) of section 23 of Chapter 119, as so
56 appearing, is hereby amended by inserting after subsection clause (i) the following subsection:-

57 The department shall ensure that the placement of a child in foster care takes into account
58 the appropriateness of the current educational setting and the proximity to the school in which
59 the child is enrolled at the time of each placement; coordinate with the appropriate local
60 educational agencies to ensure that the child remains in the school which the child is enrolled in
61 at the time of each placement; or, if remaining in such school is not in the best interests of the
62 child, ensure that the child is immediately and appropriately enrolled in a new school and that all
63 of the child's educational records have been provided to the school.”

64 SECTION 6. Subsection (c) of section 23 of chapter 119 of the General Laws, as
65 appearing in the 2014 Official Edition, is hereby amended by striking out the second paragraph
66 and inserting in place thereof the following two paragraphs:-

67 The department shall also seek to identify any minor sibling or half-sibling of the child.
68 The department and the court shall ensure that children placed in or under the department's care,
69 custody or responsibility are placed in the same home with all siblings and half-siblings unless
70 the department shows by clear and convincing evidence that the best interests of one or more
71 siblings require a separate placement. The court shall make specific findings to support any such
72 best interests finding. Notwithstanding the foregoing, the department may separate a child from
73 one or more siblings or half-siblings to avoid immediate risk of harm to any child. However, if
74 the department does so without prior court approval, it shall file a petition for court approval of
75 its placement decision within one business day thereafter and provide notice to all counsel in any
76 proceeding under this chapter. The court shall hold a hearing regarding such placement change

77 within seven days. The department shall bear the burden of showing by clear and convincing
78 evidence that the best interests of one or more siblings require a separate placement. Any child
79 over the age of seven or an agent of the child who is placed apart from any sibling or half-
80 sibling, even if placed with other siblings or half-siblings, may petition the court for a review and
81 redetermination of its decision authorizing a separate placement. The department shall bear the
82 burden of showing by clear and convincing evidence that the best interests of one or more
83 siblings continues to require a separate placement.

84 If the court authorizes the department to place siblings or half-siblings in separate
85 placements, the department shall make ongoing and systemic efforts to remedy any problems
86 that led to the separate placements. The department shall document its efforts in the case plan.
87 Notwithstanding the provisions of section 21 of this chapter, the court may make any order to
88 ensure the joint placement of siblings or half-siblings as may be in the children's best interests.

89 SECTION 7. Chapter 119 of the General Laws is further amended by inserting after
90 section 23B the following section:

91 Section 23C. As used in this section, the following words shall have the following
92 meanings:-

93 "Department" shall mean the department of children and families.

94 "Foster youth" shall mean a child under the care or custody of the department of children
95 and families or a young adult who has signed a voluntary placement agreement with the
96 department of children and families.

97 “Electronic backpack” shall mean an electronic repository of a foster youth’s educational
98 records.

99 Notwithstanding the provisions of any general or special law to the contrary, the
100 commissioner of the department, in consultation with the office of the child advocate and the
101 secretary of education, shall develop and implement an “electronic backpack” program for the
102 educational stability of foster youth.

103 (a) The department shall create an electronic backpack for each foster youth. The
104 department, in conjunction with the executive office of education, shall determine the format of
105 the electronic backpack. The department will consider methods to prevent further stigmatization
106 of the foster youth while determining the format of the electronic backpack. Each electronic
107 backpack must contain educational records of the foster youth, including the names and
108 addresses of educational providers, the foster youth's grade-level performance, and any other
109 educational information the department requires.

110 (b) The department shall maintain the electronic backpack as part of the department's
111 records for the foster youth as long as the foster youth remains in foster care.

112 (c) The department shall make the electronic backpack available to:

113 (1) any person authorized by law to make educational decisions for the foster youth;

114 (2) any person authorized to consent to medical care for the foster youth; and

115 (3) any provider of medical care to the foster youth if access to the foster youth's
116 educational information is necessary for the provision of medical care and is not prohibited by
117 law.

118 (d) The department shall collaborate with the executive office of education to develop
119 policies and procedures to ensure that the needs of foster youths are met in every school district.

120 SECTION 8. Section 26 of Chapter 119 of the General Laws is hereby amended inserting
121 after section 26C the following section:

122 Section 26D: As used in this section, the following words shall have the following
123 meanings:-

124 “Department” shall mean the department of children and families.

125 (a) The Department shall include as part of its Massachusetts Approach to
126 Partnership in Parenting (MAAP) training for foster parents information regarding the prevention
127 of child abuse, prevention of child sexual abuse, and prevention of commercial sexual
128 exploitation of children. The Department shall consult with outside independent experts with
129 demonstrated expertise in child abuse, child sexual abuse, and the commercial sexual
130 exploitation of children when developing this training.

131 (b) The Department shall include as part of its MAAP training for foster parents
132 information on caring for infants in foster care, including information regarding caring for
133 infants with neonatal abstinence syndrome and substance-exposed infants. The Department shall
134 consult with hospitals and nonprofit entities when developing this training.

135 (c) The Department shall include as part of its MAAP training information for foster
136 parents regarding cultural and racial sensitivity.

137 (d) The Department shall create a 6-hour online or in-person kinship placement
138 training program for relative caregivers taking care of a foster child, with childcare as needed to
139 complete the training.

140 (e) The Department shall require that all foster parents and kinship families
141 participate in 6-hours of training annually.

142 SECTION 9. Section 26 of Chapter 119 of the General Laws is hereby amended by
143 inserting after section 26D the following section:

144 Section 26E: The Department shall offer specialized training to Foster Parents or kinship
145 care providers of special needs children whose goal includes permanency through adoption or
146 kinship so that these families are supported in seeking permanency. To address the unique needs
147 and demands in our state at this time this training shall:

148 (a) Include the impact of foster care, adoption and attachment losses on infants and very
149 young children who are over-represented in our state's foster care system.

150 (b) Include the impact of foster care, adoption and attachment losses on children over the
151 age of nine

152 (c) Provide training from experts from a diversity of backgrounds on the long-term health
153 and well-being of substance exposed newborns, a population uniquely vulnerable to low rates of
154 adoption and who are classified as "Special needs" under current ASFA language.

155 SECTION 10. Section 26 of Chapter 119 of the General Laws is hereby amended by
156 inserting after section 26E the following section:-

157 Section 26F: Every foster parent including any kinship caretaker shall have:

158 (a) The right to reasonable access to a caseworker who makes the case plan decisions of
159 the children in their care. Reasonable access shall include the social worker and supervisor's
160 office telephone numbers and email addresses as well as, a minimum, monthly visits by social
161 worker;

162 (b) The right to have access to agency staff for assistance in dealing with emergencies on
163 a 24 hour basis;

164 (c) The right to be included in scheduled meetings and appointments concerning the
165 child including but not limited to, individual service planning meetings, foster care reviews,
166 individual educational planning meetings and medical appointments;

167 (d) The right to be provided with training, consultation and assistance in identifying,
168 evaluating and accessing resources and services to meet the foster parent's needs related to the
169 foster parent's role as a foster parent, including, but not limited to, training, consultation and
170 assistance related to improving skills in providing daily care and meeting the needs of the child
171 in foster care, all foster care policies, a foster parent handbook, minimum standards for family
172 foster homes, therapeutic foster care and the mediation procedure;

173 (e) The right to be involved when appropriate with family members and the right to
174 participate in the development of visitation plans;

175 (f) The right to access all information on a child, at placement, and on an ongoing basis,
176 that could impact the care provided the child and/or the health and safety of the child and/or
177 foster family members. Information shall include case plan, health/medical, educational,
178 court/legal decisions, and social history as known to the Department, to better meet the needs of
179 children in their care;

180 (g) The right to be given written notice of all proceedings and hearing pertaining to the
181 child at least 10 days prior to the hearing or proceeding and the right to attend this hearing and be
182 heard

183 (h) The right to present oral or written evidence addressing the needs, strengths, behavior,
184 and development of the child

185 (i) The right to accept or refuse a placement within the family foster home and to request
186 with 2 weeks' notice to the department, except in an emergency, the removal of a child from the
187 family foster home for good cause without threat of adverse action by the department. Except in
188 emergencies, the department shall provide a foster parent 2 weeks' notice before a child is
189 removed from the foster parent's care along with a written statement of the reasons for the
190 removal.

191 (j) A foster parent shall treat all information received from the department and its
192 contractors relating to a foster child in the foster parent's care or the child's birth family as
193 confidential. Information necessary for the medical or psychiatric care of the child may be
194 provided to the appropriate practitioners. A foster parent may share information with school
195 personnel that is necessary in order to secure a safe and appropriate education for the child. A
196 foster parent shall share information known to the foster parent related to concerns that arise in
197 the care of the child with the child's caseworker and other members of the child's treatment team.

198 (k) If a child reenters the foster care system and is not placed in a relative's home, the
199 department shall give a former foster parent of the child first consideration for placement of the
200 child. The department shall also give a foster parent first consideration for adoption or permanent

201 placement of a child in the foster parent's care if the child becomes available for adoption or for
202 another planned permanent living arrangement.

203 (l) When making decisions in developing a child's permanency plan, the Department
204 shall consider the length of time a child has been cared for by a single foster family and the bond
205 between the child and foster family.

206 (n) A foster parent may file a grievance in response to any violation of this chapter. The
207 department shall develop and maintain a grievance procedure that includes a mediation
208 procedure to be published in a foster parent handbook within one year of the effective date of
209 this chapter. The department shall establish an advisory committee to assist the department in
210 developing and maintaining the grievance procedure.

211 SECTION 11. Section 26 of the Chapter 119 of the General Laws is hereby amended by
212 inserting after section 26F the following section:-

213 Section 26G. A parent whose child is currently involved with the Department shall have
214 the right to reasonable access to a caseworker who makes the case plan decisions of the children
215 in their care. Reasonable access shall include the social worker and supervisor's office telephone
216 numbers and email addresses. A parent shall have the right to access agency staff for assistance
217 in dealing with emergencies on a 24-hour basis.

218 SECTION 12. Section 51A of chapter 119 is amended by striking out subsection (k), as
219 so appearing, and inserting in place thereof the following paragraph:-

220 "(k) A mandated reporter shall successfully complete the department's mandated reporter
221 training by July 1, 2017, and every three years thereafter to recognize and report suspected child

222 abuse and neglect. Beginning on July 1, 2017, any mandated reporter who applies for or renews
223 a professional license shall provide evidence of successful completion of this training. Successful
224 completion of this training may be used towards continuing education unit requirements.”

225 SECTION 13. Said Chapter 119 is hereby further amended by striking out subsection (g)
226 of section 51B, as so appearing, and inserting in place thereof the following subsection:-

227 “(g) Each family assessment and service plan must document the involvement of the
228 parents or guardians and children age 7 or older, including children in the custody of the
229 department and their siblings or half-siblings and children placed by a court in the custody or
230 under the guardianship of a relative or other suitable person, in the development of the plan.
231 Such efforts shall include, but not be limited to: (a) encourage the parents or guardian and the
232 children to participate in the development and review of the plan and attempting to obtain the
233 parents’ or guardian’s signatures documenting their review of the plan; (b) obtain information
234 through separate and private conversations from the child and the parents about potential kin or
235 other adults with whom the child or the family has a relationship who could serve as a placement
236 for the child; and (c) if either the parents or child is not involved in the development of the plan,
237 the reasons shall be documented.”

238 SECTION 14. Section 51F of Chapter 119 of the General laws is hereby amended by
239 inserting after the third paragraph the following:

240 DCF Background Record Check reports of Central Registry Records on a parent or foster
241 parent consisting exclusively of 51A reports determined to be “invalid”, “unsupported” or by
242 some other designation conclude that the parent or foster parent was not found to be responsible
243 for abuse or neglect of a child, shall be reported to the hiring authority as “no record”. Said

244 report shall be considered a full accounting of the parent or foster parent’s central registry record.
245 Nothing in this section shall prevent the Department from maintaining and using this data in
246 investigating future 51A reports.

247 SECTION 15: On or before July 1, 2017 the department shall promulgate revise
248 regulations regarding the implementation of the provisions of Chapter 119 Section 29D and
249 Chapter 210, Section 3 (b) to specify that notice of all proceedings and hearings pertaining to the
250 status of the subject child shall be provided to a foster parent, pre-adoptive parent or relative
251 providing care for the child in writing at least ten days prior to said hearing or proceeding to
252 inform the foster parent, pre-adoptive parent or relative of the time and place of the hearing and
253 his right to attend the hearing and to be heard. Said regulations shall allow for the submission of
254 oral or written testimony of the foster parent, pre-adoptive parent or relative providing care for
255 the child addressing the needs, status, development and best interests of the child in his or her
256 care, to be submitted under pains and penalties of perjury, and shall further provide for guidance
257 in preparation of such written and sworn testimony. Nothing herein shall be construed to provide
258 that such foster parent, pre-adoptive parent or relative shall be made a party to the proceeding.

259 SECTION 16. Notwithstanding any general or special law to the contrary, there shall be a
260 commission to study and report on the development of a foster care review system independent
261 of the department of children and families. The commission shall consist of: the commissioner
262 of the department of children and families or a designee; the chief justice of the probate and
263 family court or a designee; the child advocate or a designee; the deputy chief counsel of the
264 committee for public counsel services’ children and family law division or a designee; the chair
265 of the Children’s League of Massachusetts, Inc. or a designee; the Massachusetts Alliance for
266 Families or a designee; the Massachusetts Law Reform Institute, the house and senate chairs of

267 the joint committee on children, families and persons with disabilities; and 3 appointees of the
268 governor, 2 of whom shall have expertise in child welfare and one of which is an infant mental
269 health specialist.) The commission shall research, assess and develop recommendations to
270 implement an independent foster care review system. The commission shall also investigate
271 methods for reducing the number of foster home placements that children in the department’s
272 custody experience. The commission shall hire an independent consultant to conduct the
273 research and assist with the preparation of any recommendations. The commission shall submit
274 a final report of its findings and recommendations, together with drafts of legislation to
275 implement those recommendations, by filing the same with the clerks of the senate and the house
276 on or before December 31, 2018.

277 SECTION 17. The Massachusetts office for refugees and immigrants shall, in
278 collaboration with the department of children and families, the department of public health, the
279 department of mental health, the department of elementary and secondary education, the
280 department of higher education, and the department of transitional assistance, identify areas in
281 which there is a need for increasing culturally competent services. For the purposes of this act,
282 “culturally competent services” shall mean a department’s ability to provide direct services to a
283 client in the client’s native language, and with an understanding of and sensitivity to the elements
284 of the client’s culture that would affect their parenting and other behaviors relevant to the
285 departments work with them, which shall be provided by a professional with at least 2 years of
286 experience working with a population culturally similar to that of the client.

287 In order to assess the need for increasing culturally competent services, the
288 Massachusetts office for refugees and immigrants shall: (1) obtain all existing data and
289 information from the departments identified in section 1 regarding any culturally competent

290 services the departments currently provide; and (2) collect population data for each municipality
291 in the commonwealth, which shall identify, for each municipality, any ethnic groups that make
292 up at least 2% of the municipality's population, the language or languages spoken by each such
293 ethnic group, the country of origin of each such ethnic group, and the estimated total population
294 of each such ethnic group.

295 The Massachusetts office for refugees and immigrants shall submit a report on the
296 information collected pursuant to this act, which shall identify areas in need of culturally
297 competent services and recommendations for improving access to culturally competent services,
298 together with drafts of legislation or regulations necessary to carry those recommendations into
299 effect, by filing the same with the governor, and the clerks of the senate and the house of
300 representatives not later than March 31, 2016. The clerks of the senate and the house of
301 representatives shall forward the report to the president of the senate and the speaker of the house
302 of representatives.

303 SECTION 18. The Department shall establish a pilot program shall to aid independent
304 youth aging out of foster care as they transition from foster kids to independent adults. This pilot
305 program may include the following:

306 (a) An in-person peer-mentoring pilot program in which youths aging out of the foster
307 care are matched with matched with volunteer community mentors who have successfully
308 transitioned out of foster care in the past to discuss the opportunities and challenges of aging out
309 of care, including discussions about employment, housing, transportation, and other support.
310 The Department shall establish background check standards and training for peer-mentors.

311 (b) An E-Mentoring pilot program to be conducted online, over the internet, or through
312 the use of mobile applications for the purposes of connecting foster youth with a mentor who
313 may provide advice about independent living such as skills to maintain employment, affordable
314 housing, transportation, and other support.