

HOUSE No. 112

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>1/11/2019</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>1/11/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/11/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/15/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/14/2019</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>1/14/2019</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>	<i>1/30/2019</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>1/31/2019</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>	<i>2/1/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/29/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>1/22/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/1/2019</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/18/2019</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>2/1/2019</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>2/1/2019</i>

HOUSE No. 112

By Representatives Farley-Bouvier of Pittsfield and Vega of Holyoke, a petition (accompanied by bill, House, No. 112) 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 Ninety-First General Court
(2019-2020)**

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
4 SECTION 2. The General Laws are hereby amended by inserting after Chapter 18B the
5 following 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 otherwise noted:

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

9 “CASA”, court appointed special advocate.

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

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

12 “Foster care placement”, all out-of-home placement of children, youth or young adults by
13 the department whether voluntarily or by court assigned custody.

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

15 “Foster care review”, an administrative review of the status of each child, youth or young
16 adult who is in foster care placement.

17 “Local panel”, a local foster care review panel of trained volunteer citizen reviewers and
18 FCRO staff created pursuant to this chapter.

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

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

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

22 Section 2. (a) There shall be an office of foster care review, which shall be independent
23 of any supervision or control by any executive agency. The FCRO shall be established as an
24 independent state agency, overseen and supported by the board.

25 (b) The FCRO shall conduct foster care case reviews every six months of every child in
26 foster care placement to make determinations and recommendations regarding the placement and
27 progress towards permanency; provide information and direct reporting to the legislature, the
28 department, the governor, the secretary, the chief justices of the juvenile and the probate and
29 family courts, and the public regarding the foster care system in Massachusetts; make

30 recommendations regarding foster care policy; and ensure oversight, accountability and
31 transparency regarding the foster care system.

32 (1) The FCRO shall designate local panels of trained citizen reviewers to conduct foster
33 care case reviews for every child in foster care placement at least every six months while in
34 placement.

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

36 i. Policies and procedures regarding the duties of FCRO staff including the
37 scheduling and conduct of case reviews, advanced notice to parties to the case, development of
38 individual case review reports including findings and recommendations, dissemination of
39 individual case review reports to the parties, and follow-up of individual cases in accordance
40 with FCRO policies and procedures;

41 ii. Guidelines regarding citizen reviewer qualifications and recruitment;

42 iii. Training programs for citizen reviewers which shall include an initial training
43 program and periodic in-service training programs;

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

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

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

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

51 (3) The FCRO shall provide periodic and annual aggregate reports to the legislature,
52 governor, secretary, the department, the chief justices of the juvenile and the probate and family
53 courts and the public.

54 (4) The FCRO shall have access to all relevant information regarding any child, youth or
55 young adult eligible for foster care case review including, but not limited to, data, records and
56 case files provided to the FCRO by the department.

57 (5) Individual case review reports shall be provided to all parties to the legal case for
58 judicial consideration and for the purpose of permanency planning.

59 (c) The FCRO shall be the only entity that conducts periodic, administrative foster care
60 case reviews as required by the Adoption Assistance and Child Welfare Act of 1980 (Public Law
61 96-272).

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

63 (b) Any person appointed to the position of executive director shall be selected without
64 regard to political affiliation and on the basis of integrity and demonstrated ability in leadership,
65 organizational management, collaboration, and child welfare, advocacy or law.

66 (c) The executive director may be removed from office for cause by a majority vote of
67 the board. Such cause may include substantial neglect of duty, gross misconduct or conviction
68 of a crime. The cause for removal shall be stated in writing and shall be sent to the governor,
69 attorney general, auditor and clerks of the senate and house of representatives at the time of
70 removal and shall be a public document.

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74 Section 4. (a) The board shall have a maximum of thirteen members, geographically
75 diverse and appointed by a majority vote of the governor, attorney general and auditor.
76 Membership shall include the child advocate or designee, the department commissioner or
77 designee, a representative of the Children’s League of Massachusetts, the Massachusetts CASA
78 program state director, a state educational administrator/superintendent, a legal representative of
79 the child and family division of the committee for public counsel services, a pediatrician with
80 expertise in the area of adverse childhood experiences, a representative of organized labor to be
81 designated by the president of the collective bargaining unit that represents the social workers of
82 the department, a foster parent, an adult foster care alumni, one former department staff
83 reviewer, and two current citizen volunteer reviewers with a minimum of five years experience
84 as a reviewer.

85 (b) The members shall have no pecuniary interest in the foster care system and shall not
86 be employed by the FCRO, the executive office of health and human services, the department, a
87 child welfare agency providing services on behalf of the department, the juvenile court or the
88 probate and family court.

89 (c) The terms of the members shall be for three years, with the exception of the child
90 advocate who may serve as long as he/she serves as the child advocate. Members shall not serve
91 more than two consecutive terms, except that members shall serve until their successors have
92 been appointed.

93 (d) The Board shall meet at least four times each calendar year. Each member shall attend
94 at least two meetings each calendar year and shall be subject to removal for failure to attend at
95 least two meetings unless excused by a majority of the members of the board.

96 (e) The board shall:

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

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

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

100 (f) The executive director shall be the administrative head of the FCRO and shall devote
101 full-time to the duties of the FCRO. The executive director shall provide information and
102 reporting services, provide analysis of information obtained, and oversee foster care case reviews
103 and tracking. The executive director shall, through information analysis and with the assistance
104 of the board, (1) determine key issues of the foster care system and make recommendations to
105 improve the system, (2) identify key areas of strength and (3) make policy recommendations.

106 (g) The executive director of the FCRO shall be responsible for all human resource
107 planning and management; for the duties of the office as provided by law, including the annual
108 aggregate report and any periodic reporting; data collection and analysis; and oversight and
109 training of local panels of citizen reviewers. The executive director shall meet at least monthly
110 with the council to review and address issues and concerns regarding services for children, youth
111 and families as well as individual case challenges that require escalation to address or resolve.

112 Section 5. (a) The FCRO shall designate local panels of citizen reviewers, in
113 geographical locations that correspond with the department's service areas, to conduct foster care

114 case reviews. The number of panels required is determined by the FCRO in accordance with the
115 number of children, youth and young adults in foster care placement within each service area.
116 The executive director of the office shall create and implement citizen volunteer recruitment
117 efforts and select citizen volunteers from local areas to serve on local panels. A person employed
118 by the FCRO, the department, a child welfare agency or juvenile and probate/family courts shall
119 not be appointed to a local panel with the exception of a foster care or kinship individual.

120 (b) Each local panel, comprised of one FCRO staff reviewer and two trained citizen
121 reviewers, shall conduct individual foster care case reviews in accordance with the policies and
122 procedures created and implemented by the FCRO.

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

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

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

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

129 (4) Extent to which services in the plan are being provided and the identification of
130 any barriers to receiving the needed services;

131 (5) Progress made toward the permanency goal;

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

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

134 (8) Goals for the next six months;

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

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

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

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

146 Section 7. (a) The FCRO interdisciplinary council shall include commissioner level or
147 designee representation of the department, the office of the child advocate, developmental
148 services (DDS), elementary and secondary education (DOE), mental health (DMH), public
149 health (DPH), transitional assistance (DTA), youth services (DYS) and the Massachusetts
150 rehabilitation commission (MRT).

151 The council shall be chaired by the FCRO executive director and shall convene at least
152 monthly. The FCRO shall ensure that appropriate services are being delivered in the best interest
153 of the child, youth or young adult.

154 (b) The council shall:

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

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

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

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

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

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

172 Section10. (a) The FCRO executive director shall report annually to the governor, the
173 president of the senate, the speaker of the house of representatives, the joint committee, the chief
174 justices of the juvenile and the probate and family courts, the secretary and the commissioner of
175 the department on the activities of the FCRO, including but not limited to statistics and analysis

176 of aggregate data from the foster care reviews regarding strengths, issues, policy concerns, and
177 problems which have come to the attention of the FCRO and the executive director from analysis
178 of the aggregate data. The executive director shall make recommendations to address the issues,
179 concerns and problems identified.

180 (b) The report shall be made public.

181 Section 11. (a) No person employed by or contracted by or volunteering for the FCRO
182 shall be subject to suit directly, derivatively or by way of contribution or indemnification for any
183 civil damages under the laws of the commonwealth resulting from any act or omission performed
184 during or in connection with the discharge of his/her duties within the scope of employment or
185 appointment, unless such act or failure to act was committed with gross negligence, maliciously
186 or in bad faith.