

HOUSE No. 118

The Commonwealth of Massachusetts

PRESENTED BY:

Sean Garballey

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 relative to children in the care, protection, and custody of the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/18/2019</i>

HOUSE No. 118

By Mr. Garballey of Arlington, a petition (accompanied by bill, House, No. 118) of Sean Garballey relative to children in the care, protection, and custody of the Commonwealth. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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 2010 Official Edition, is
2 hereby amended by striking out, section 215 and inserting in place thereof the following section:-

3 There shall be an interagency child welfare task force, hereinafter referred to as the task
4 force. The task force shall consist of 28 members or agencies including: the secretary of health
5 and human services and the child advocate, who shall serve as co-chairs; the department of
6 children and families; the department of youth services; the department of transitional assistance;
7 the department of mental health; the department of developmental services; the department of
8 public health; the department of elementary and secondary education; the department of early
9 education and care; the office of Medicaid; the division of insurance; the; the executive office of
10 housing and economic development; the executive office of labor and workforce development;
11 the department of public safety; the department of housing and community development; the
12 chief justice of the juvenile court; the department of probation; and 6 members appointed by the

13 governor including: 2 parents of youth who were formerly in the care of the commonwealth, 2
14 youth who were formerly in the care of the commonwealth, 2 direct line social workers selected
15 from a list of 12 applicants selected by the Statewide advisory council; 2 provider agencies who
16 offer direct services to children in the custody of the department of youth services and 2 provider
17 agencies who offer direct services to children in the care of the department of children and
18 families, one of which must solely provide foster care.

19 The task force shall hold monthly meetings and shall work collaboratively to establish
20 annual interagency goals to coordinate and streamline services to children and families and shall
21 examine and develop a comprehensive plan to address, at minimum, the following: interagency
22 collaboration to increase medical and mental health consultation; the availability of health and
23 behavioral health services to children and families; examine options to strengthen the
24 independence of the office of the child advocate and recommend any legislative changes at the
25 conclusion of the first year; collaboration with law enforcement as it relates to children and
26 families involved with the criminal justice system; the availability of supportive child care for
27 children in the care of the department of children and families; domestic violence awareness
28 programs; children awaiting discharge from psychiatric inpatient units; interagency training
29 initiatives for staff, communities and providers; analyzing and determining a reasonable
30 timeframe, not to exceed 3 years of implementation of this act, to implement a common
31 identifier for all children and families that enter the child welfare system in order to track the
32 recidivism of child abuse and neglect within a family structure while ensuring that
33 confidentiality is upheld; searching out new funding sources from within the commonwealth, the
34 federal government and grant opportunities to provide the following services to children in the
35 foster care system: at least 2 weeks of summer camp, after-school care, participation in school-

36 based sports, at least 1 week of school vacation camp, participation in art or musical school-
37 based activities and at least 1 week of paid respite care for foster families; evaluate the
38 transportation issues between the department of education and the executive office of health and
39 human services that arise with foster children and create a detailed plan to address and cease
40 these issues within 3 years of implementation of this act; create and implement a detailed plan to
41 provide workforce opportunities in communities and small businesses for children in the care
42 and custody of the commonwealth who are of age to be employed at least part-time through tax
43 incentives, apprenticeships and mentoring opportunities; and evaluate the cost of current
44 redundant programs and services offered through multiple agencies that impact the lives of
45 children.

46 The task force shall report quarterly to the governor’s cabinet on its progress of
47 implementing the interagency goals and plans. The task force shall also report annually to the
48 governor, the clerks of the house of representatives and the senate, the house and senate
49 committees on ways and means, and the joint committee on children, families and persons with
50 disabilities on the activities and progress of the task force including detailed plans to implement
51 the goals and objectives of the task force and any recommendations for new funding and the
52 amount of funding needed to implement the goals and plans of the task force.

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

58 SECTION 3. Said section 2 of said chapter 18B is hereby further amended by inserting
59 after the word “services”, in line 24, the following words:- “, including the opportunity for each
60 child in the foster care system to attend at least 2 weeks of summer camp and at least 1 week of
61 school vacation camp”.

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

64 SECTION 5. Said section 2 of said chapter 18B is hereby further amended by striking
65 out, in line 33, the word:- “.” and inserting in place thereof the following:- “; (18) culturally
66 competent supportive services for pre-adoptive and adoptive families to ensure success of
67 permanency, including allowing the continuation of services provided from multiple agencies to
68 occur simultaneously.”.

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

71 “(o) The commissioner, in consultation with the child advocate and other agencies the
72 commissioner deems relevant, including, but not limited to, the Massachusetts District Attorneys
73 Association, the Massachusetts chapter of the National Association of Social Workers, the
74 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, in consultation with office of the child advocate and the secretary
82 of education, shall develop a statewide plan for the educational stability of children placed in the
83 care or custody of the department of children and families and young adults who have signed
84 voluntary placement agreements with the department of children and families. The plan shall at
85 minimum include: (i) a procedure to allow foster children to continue their education in the
86 school they were enrolled in before entering foster care if such placement is determined to be in
87 their best interest; (ii) a process to minimize the loss of learning time due to changing schools;
88 (iii) procedures for transferring academic and other records expediently when a foster child is
89 placed in a new school; (iv) a process for designating foster care education liaisons to facilitate
90 placement, records transfer, calculation of credits earned, and other transition issues for foster
91 children; (v) a process for determining federal, state and local funding sources for transportation
92 of students to their school of origin; (vi) an assurance that children in care attend school on a
93 regular basis as required by law; (vii) recommendations for administration and legislative
94 actions, including, but not limited to, legislation that requires local school districts to adhere to
95 different residency requirements for relocated foster children; (viii) an assurance that the
96 department of children and families will coordinate with the appropriate local educational
97 authority to identify how the child could remain in the educational setting in which the child was
98 enrolled at the time of placement or, if it is determined that it is not in the child's best interest to
99 remain in that setting, the local educational authority shall immediately enroll the child in
100 another educational setting during the child's placement and ensure that the child's educational
101 records are transferred to the new educational setting.

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

106 (q) The commissioner shall work with any state executive office or department the
107 commissioner deems appropriate to establish and implement a series of initiatives, to be
108 completed no later than 12 months after the effective date of this act, to achieve paragraph (7) of
109 subsection (b) of section 3 of chapter 18B including, but not limited to, the following areas: (i)
110 creating a standardized form of identification for all foster parents employed by the
111 commonwealth or private agencies; (ii) free admission for foster parents into any department of
112 conservation and recreation park, skating rink, pool, campground or facility; (iii) reimbursement
113 for any trainings required by the commonwealth to execute their duties as foster parents; and (iv)
114 evaluating a scale of employee or fringe benefits currently offered to state employees to be
115 extended to foster parents.”.

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

118 “Section 4A. There shall be a child abuse and neglect expert review panel, hereinafter
119 referred to as the panel, under the purview of the child advocate, who shall serve as chair. The
120 members of the panel shall include: the commissioner of the department of children and families,
121 the executive director of the Children’s Trust Fund, and 2 members selected by the child
122 advocate to include: a medical expert in the field of pediatrics and a social worker with a
123 minimum of 10 years direct case work experience. The panel shall review the repeated entry of

124 children into the care of the department of children and families. Any open or closed cases
125 within a 12 month period for the same child or the same family unit shall constitute repeated
126 entry. The panel shall determine if any actions can be taken to protect the child from further
127 harm or if any agency regulations should be modified. The panel’s review and determinations
128 shall be kept confidential. The panel shall report on any trends that are cycling through families,
129 agency service gaps, and recommendations for policy changes to rectify the repeated abuse and
130 neglect of children as part of the annual report as established in section 10 of this chapter.

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

135 SECTION 8. Section 5 of said chapter 18C, as so appearing, is hereby amended by
136 Inserting at the end of subsection (a) the following sentence:- The child advocate must conduct
137 an investigation of a sampling of at least 15% of all critical incidents reported from an executive
138 agency.

139 SECTION 9. Section 2DDDD of chapter 29 of the General Laws, as so appearing, is
140 hereby amended by striking, in the final clause, the word “and”; and further amended, at the end
141 thereof, by inserting the following clause:- “; and (11) summer enrichment programs for youth in
142 the care and custody of the commonwealth to prevent school dropout and encourage new
143 creative thinking and engagement in fields vital to the commonwealth’s economic growth.”.

144 SECTION 10. Section 2 of chapter 71B of the General Laws, as so appearing, is hereby
145 amended by inserting at the end thereof the following paragraph:-

146 “The department of children and families and the department of elementary and
147 secondary education shall establish procedures (i) to allow foster children to continue their
148 education in the school they were enrolled in before entering foster care if such placement is
149 determined to be in their best interest; (ii) to minimize the loss of learning time due to changing
150 schools; and (iii) for transferring academic and other records expediently when a foster child is
151 placed in a new school. Academic and other records shall include an individualized education
152 program and shall be transferable immediately to any other licensed school and school district
153 within the commonwealth, unless a child’s individualized education program is subject to
154 reevaluation in pursuant to this section. If a child’s individualized education program is subject
155 to reevaluation, the individualized education program from the child’s school of origin shall
156 remain in effect to the extent possible until reevaluation occurs”.

157 SECTION 11. Section 7 of chapter 76 of the General Laws, as so appearing, is hereby
158 amended by inserting at the end thereof the following paragraph:-

159 “Any school age child placed in foster care or group care outside of their home town shall
160 have their school records transferred within 2 business days to ensure the continuation of the
161 child’s learning. Any absences the child endures due to a school transfer, court appearance or
162 any meeting regarding their foster care status shall not be counted against the child in any matter
163 of graduation or in any child requiring assistance application.”.

164 SECTION 12. Said section 7 of chapter 76, as so appearing, is hereby further amended by
165 inserting at the end thereof the following paragraph:-

166 “Notwithstanding section 5 of this chapter, any school age child removed from the home
167 of the child’s parents or guardians under chapter 119, sections 23, 24, 25, 26, 39G or 39H and

168 placed in the custody of the department of children and families or another custodian, may
169 continue to attend the school in which the child was enrolled at the time of removal (“the school
170 of origin”). The right to attend the school of origin shall apply to any subsequent placement. If
171 the child’s custodian determines, in consultation with the child and the child’s school, that it is
172 not in the best interest of the child to remain in the school of origin, the child shall be
173 immediately and appropriately enrolled in the new school. The child’s custodian shall promptly
174 notify the child’s attorney and the school of origin of the decision. Where the child’s custodian is
175 the department of children and families, and the department determines that it is in the child’s
176 best interest to enroll the child in a school in the district in which the child is placed, the
177 department shall provide the child’s attorney with written notice of the decision. This notice shall
178 identify the factors that form the basis of the decision. Nothing in this section shall be construed
179 to detract from any other right that a child may have under any other law.

180 SECTION 13. Section 2 of chapter 111G of the General Laws, as so appearing, is hereby
181 amended by inserting at the end thereof the following paragraph:-

182 “The department, in consultation with the commissioner of children and families and the
183 division, shall, review and revise the early intervention operational standards to ensure that
184 children under the age of 3, who have an open protective case with the department of children
185 and families, be deemed categorically eligible for early intervention services.”.

186 SECTION 14. Paragraph (7) of subsection (a) of section 23 of said chapter 119, as so
187 appearing, is hereby amended by inserting after clause (i) the following 4 subsections:-

188 “(j) The department, in consultation with the area boards created in section 13 of chapter
189 18B and the statewide advisory council created in section 16 of chapter 18B, shall create an age-

190 appropriate, culturally-appropriate, life-skills curriculum for children in the foster care system.
191 The curriculum shall begin for children age 11 and continue through age 18 and shall include,
192 but not be limited to, the following areas: interpersonal skills; completing household duties;
193 running a home; grocery shopping; opening a bank account; interviewing for jobs and/or college;
194 filling out job applications; managing bills; and financial literacy education. The curriculum shall
195 be approved by the secretary of health and human services and shall include a timeframe and
196 cost analysis of implementation within 3 years of implementation of this act.

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

203 Each parent shall also be asked to provide the name of kin or other adult with whom the
204 child or the family has a relationship who could serve as a potential placement for the child. Each
205 parent shall also be given a meaningful opportunity to participate in the development of the case
206 plan and to state the parent's preference(s) for initial and any subsequent placement or custody of
207 the child.

208 If the department has, or is seeking, custody of a child, the department shall first
209 investigate the possibility of placing the child in accordance with the placement preferences of
210 the child and/or parent(s). The department shall complete that investigation before placing the
211 child and make placement changes as appropriate based on the outcome of that investigation.

212 Specific reasons for placement decisions must be documented in writing in the case file,
213 including the reasons for rejecting placements identified by the child and/or parent(s).

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

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

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

234 SECTION 15. Said chapter 119 is hereby further amended by striking out subsection (k)
235 of section 51A, as so appearing, and inserting in place thereof the following paragraph:-

236 “(k) A mandated reporter shall successfully complete the training referenced in section
237 2(e) of chapter 18C by July 1, 2017, and every three years thereafter to recognize and report
238 suspected child abuse and neglect. Beginning on July 1, 2017, any mandated reporter who
239 applies for or renews a professional license shall provide evidence of successful completion of
240 this training.”. Successful completion of this training may be used towards continuing education
241 unit requirements..

242 SECTION 16. Said chapter 119 is hereby further amended by striking out subsection (g)
243 of section 51B, as so appearing, and inserting in place thereof the following subsection:-

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

255 SECTION 17. Section 3 of chapter 210 of the General Laws, as most recently amended
256 by chapter 93 of the acts of 2011, is hereby amended by inserting at the end thereof the following
257 paragraph:-

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

- 262 i. The child is at least 12 years of age;
- 263 ii. The court has determined after a hearing under section 29B of chapter 119 that
264 adoption is no longer the permanency plan for the child; and
- 265 iii. Either the child has not been adopted or, if the child has been adopted, a court has
266 entered an order terminating the parental rights of the child’s adoptive parents or the adoptive
267 parents have voluntarily surrendered their parental rights.

268 The child shall sign the motion in the absence of a showing of good cause as to why the
269 child could not do so. The court shall order that an evidentiary hearing be held and give notice of
270 the hearing to whichever of the child’s former parents the motion relates, with notice being
271 provided in the manner prescribed for a petition filed under section 24. Neither parent shall be
272 considered a party for the purpose of the motion, nor shall either have an independent right to be
273 heard, though a parent’s testimony may be offered into evidence if the parent is called as a
274 witness by a party. The court shall grant the motion if it determines by a preponderance of
275 evidence that vacating the order terminating parental rights is in the child’s best interests. The
276 court shall specify in writing the factual basis for its determination. As soon as practicable after

277 granting the motion, the court shall enter a new dispositional order under section 26(b), provided
278 that the order is in the best interests of the child. For purposes of this paragraph, the term “child”
279 includes a young adult as defined in section 21 of chapter 119.

280 SECTION 18. The department of children and families shall create a pilot -
281 mentoring/life-coach program for children in the custody of the department to encourage and
282 create life-long connections for every child aging out of the department’s care and custody. The
283 department shall work with private and non-profit organizations that have a proven track record
284 of creating such a bond for children.

285 SECTION 19. The secretary of the executive office of health and human services shall
286 work with the secretary of the executive office of labor and workforce development to create
287 individual savings accounts for each youth, age 15 and older, who are in the custody of the
288 department and develop a percentage scale of annual deposit requirements based the child’s
289 supplemental security income and age of the child with a larger percentage being deposited as
290 the child ages. Each child for which an individual savings account is created shall be allowed to
291 retain the balance of the child’s personal account upon release or upon aging out of the custody
292 of the commonwealth.

293 SECTION 20. Section 17 of this act shall apply regardless of whether the two year
294 requirement is met before, on, or after the effective date of this act.