HOUSE DOCKET, NO. 4438 FILED ON: 8/15/2019

HOUSE . . . . . No. 4083

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 DCF legislative reporting reform.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Kay Khan	*11th Middlesex*	*8/15/2019*
Sonia Chang-Diaz	*Second Suffolk*	*8/20/2019*
Joan B. Lovely	*Second Essex*	*8/16/2019*
Paul J. Donato	*35th Middlesex*	*8/20/2019*
Elizabeth A. Malia	*11th Suffolk*	*8/20/2019*
David Paul Linsky	*5th Middlesex*	*8/19/2019*
Kevin G. Honan	*17th Suffolk*	*8/16/2019*
Paul McMurtry	*11th Norfolk*	*8/22/2019*
Linda Dean Campbell	*15th Essex*	*8/19/2019*
Natalie M. Higgins	*4th Worcester*	*8/19/2019*
Aaron Vega	*5th Hampden*	*8/20/2019*
Denise Provost	*27th Middlesex*	*8/20/2019*
Andres X. Vargas	*3rd Essex*	*8/19/2019*
Carmine Lawrence Gentile	*13th Middlesex*	*8/19/2019*
Sean Garballey	*23rd Middlesex*	*8/22/2019*
Jonathan Hecht	*29th Middlesex*	*8/22/2019*
Steven Ultrino	*33rd Middlesex*	*8/19/2019*
Jack Patrick Lewis	*7th Middlesex*	*8/22/2019*

Mindy Domb	*3rd Hampshire*	*8/16/2019*
John Barrett, III	*1st Berkshire*	*8/20/2019*
Tram T. Nguyen	*18th Essex*	*8/20/2019*
William L. Crocker, Jr.	*2nd Barnstable*	*8/20/2019*
Christopher Hendricks	*11th Bristol*	*8/20/2019*
Alan Silvia	*7th Bristol*	*8/20/2019*
Tami L. Gouveia	*14th Middlesex*	*8/21/2019*
Carlos González	*10th Hampden*	*8/21/2019*
Barry R. Finegold	*Second Essex and Middlesex*	*8/22/2019*
David Henry Argosky LeBoeuf	*17th Worcester*	*8/22/2019*
Patrick Joseph Kearney	*4th Plymouth*	*8/22/2019*
Susannah M. Whipps	*2nd Franklin*	*8/22/2019*
Kathleen R. LaNatra	*12th Plymouth*	*8/22/2019*
Kenneth I. Gordon	*21st Middlesex*	*8/23/2019*
Josh S. Cutler	*6th Plymouth*	*8/26/2019*
Michael J. Soter	*8th Worcester*	*8/27/2019*
Tricia Farley-Bouvier	*3rd Berkshire*	*8/27/2019*
Christine P. Barber	*34th Middlesex*	*8/27/2019*
Patricia A. Haddad	*5th Bristol*	*8/27/2019*

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HOUSE . . . . . No. 4083

By Ms. Khan of Newton, a petition (subject to Joint Rule 12) of Kay Khan and others relative to reports required to be filed by the Department of Children and Families. 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 DCF legislative reporting reform.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 6A of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out the last paragraph.

SECTION 2. Section 7 of said chapter 18B of the General Laws, as so appearing, is hereby amended by striking out paragraph (e).SECTION 3. Section 20 of said chapter 18B, as so appearing, is hereby amended by striking out the second sentence.

SECTION 4. Section 23 of chapter 18B of the General Laws, as appearing in section 8 of chapter 321 of the acts of 2008, is hereby amended by striking out the final sentence.

SECTION 5. Section 23 of chapter 18B of the General Laws, as appearing in section 45 of chapter 176 of the acts of 2008, is hereby repealed.

SECTION 6. Section 24 of chapter 18B of the General Laws, as appearing in the 2016 Official Edition, is hereby repealed.

SECTION 7. Section 25 of chapter 18B of the General Laws, as so appearing, is hereby repealed.

SECTION 8. Chapter 18B of the General Laws as so appearing, is hereby amended by inserting after section 25 the following section: -

Section 26. (a) For the purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise: -

"Legislatively-mandated report". A report required of the department of children and families by the general court.

(b)(1) Annually, not later than October 31, the department shall issue a report that provides an overview of the department's performance during the previous fiscal year. The commissioner or a designee shall file the report with the governor, the child advocate, the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities. The commissioner shall provide the recipients of the report with an opportunity to discuss its contents with the commissioner or a designee. The report shall be made publicly available on the department's website in accordance with section 19 of chapter 66.

(2) The report shall include, but not be limited to, narratives, information, data and analysis on: (i) counts, including but not limited to: (A) case counts; (B) consumer counts; (C) reports filed pursuant to section 51A of chapter 119; (D) placement metrics; (E) infants brought into the department's care pursuant to section 39½ of chapter 119; and (F) siblings in placement; (ii) processes and outcomes, including but not limited to: (A) safety outcomes, (B) permanency processes and outcomes; (C) the rates of adoptions by race and ethnicity; (D) well-being

outcomes, including the rates and timeliness of the delivery of medical services and high school graduation rates; and (iii) operations, including but not limited to: (A) staffing trends; (B) caseloads; (C) the department's budget, including funding levels; (D) service costs; (E) medical services and advancements in providing medical services to children and young adults in the department's care; (F) amounts expended to foster care and to adoptive and guardianship families to provide assistance, including financial assistance, to provide for the care of children; and (G) the foster care review system and any recommendations for its improvement. The report shall also include comparative departmental information from prior fiscal years.

(c)(1) Quarterly, not later than 75 days after the end of each fiscal quarter, the department shall issue a quarterly profile on its website in accordance with section 19 of chapter 66 that shall include, but not be limited to, departmental, regional office and area office data on: (i) consumer counts; (ii) the number of reports filed pursuant to section 51A of chapter 119, including counts of reports received, screened-in and screened-out in the quarter; (iii) department case counts, including counts of clinical and adoption cases in the fiscal year; (iv) consumer demographic information, including race and primary language; (v) counts of children and youth in-placement; and (vi) counts of children and youth not in-placement.

(2) The commissioner or the commissioner's designee shall notify the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities when data from a profile issued pursuant to paragraph (1) significantly departs from trends reported in previous profiles.

(d) The commissioner or the commissioner's designees shall notify the joint committee on children, families and persons with disabilities when draft regulations are made available by

the department for public comment. Not more than 30 days after the promulgation of regulations or the effective date of adopted or revised departmental policies relative to services provided to children and families, the department shall provide the joint committee on children, families and persons with disabilities with copies of the regulations or departmental policies.

(e) If the department is unable to submit the report under subsection (a), issue the profile under subsection (b), or any other legislatively mandated reports by the respective deadlines, the commissioner or the commissioner's legal counsel shall notify the governor, the child advocate, the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities in writing and provide an explanation for the delay.

(f)(1) The department, in consultation with the general court and other governmental and nongovernmental partners, shall establish a 3-year plan that shall include numerical targets for the department's performance in each year and in each of its regions in the areas of safety, permanence and well-being. The plan shall include a description of how the department will measure its progress toward meeting the numerical targets. The plan may include different targets for different regions. The plan shall be updated annually not later than March 31.

(2) Annually, not later than December 31, the department shall measure its performance in meeting the targets set forth by the plan established pursuant to paragraph (1) for the commonwealth as a whole and for each of its regions, consistent with the methodology described in the plan.

(3) The department shall publish and prominently maintain on its website the current plan, the targets for previous years and the department's performance in meeting those targets.

(4) If in a fiscal year the department is unable to develop or update the plan described in paragraph (1) or to measure its performance as required by paragraph (2), the department shall notify the house and senate committees on ways and means, the joint committee on children, families and persons with disabilities, the child advocate, the chief counsel of the committee for public counsel services, the executive director of the Massachusetts Law Reform Institute and the executive director of the Children's League of Massachusetts, Inc. not later than September 1 of that fiscal year.

SECTION 9. Said section 26 of said chapter 18B of the General Laws, as so appearing, is hereby further amended by adding the following subsection:-

(f) A data work group shall convene every 2 years to make recommendations for improvements to the report and profile required under subsections (a) and (b) or any other legislatively mandated reports. The work group shall consist of the following persons or their designees: the child advocate, who shall serve as co-chair; the commissioner, who shall serve as co-chair; the chairs of the house and senate committees on ways and means; the chairs of the joint committee on children, families and persons with disabilities; the chief counsel of the committee for public counsel services; the executive director of Children's League of Massachusetts, Inc.; the executive director of a legal services program to be appointed by the governor; 1 person with expertise in child welfare data and outcome measurement to be appointed by the child advocate; and 1 person with expertise in the department's information technology, data collection and reporting systems to be appointed by the commissioner of children and families. The work group shall consult with other individuals with relevant expertise, including academics, researchers and service providers, as needed.

Not later than December 31 in every even-numbered year, the data work group shall report its recommendations, together with drafts of any legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities.

SECTION 10. Subsection (f) of section 23 of chapter 119 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the last sentence.

SECTION 11. Subsection (h) of said section 23 of said chapter 119, as so appearing, is hereby further amended by striking out the second paragraph.

SECTION 12. Section 39½ of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the final paragraph.

SECTION 13. Section 51D of said chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the final paragraph.

SECTION 14. Section 5E of chapter 210 of the General Laws, as so appearing, is hereby repealed.

SECTION 15. Chapter 47 of the acts of 2017 is hereby amended by striking out section 128 and inserting in place thereof the following section:-

Section 128. There shall be a task force on child welfare data reporting. The task force shall develop basic data measures, progress measures and key outcome measures to inform the general court and the public on the status and demographics of the caseload of the department of

children and families and the department's progress in achieving child welfare goals, including safety, permanency and well-being.

The task force shall develop criteria for measuring outcomes for children and families in the key child welfare domains of safety, permanency and well-being including, but not limited to, outcomes relative to: (i) protecting children from abuse and neglect; (ii) safely maintaining children in their own homes whenever possible and appropriate; (iii) achieving stability and permanency for children in their living situations; (iv) preserving the continuity of family relationships; (v) enhancing the capacity of families to provide for the needs of children; (vi) ensuring that children receive appropriate services to meet their educational needs; (vii) ensuring that children receive the services necessary to meet their physical and mental health needs; and (viii) achieving permanency and opportunity for young adults.

The task force shall make recommendations to: (i) ensure that the department of children and families' reports and profiles under section 26 of chapter 18B of the General Laws include data measures that are clearly defined and provided with adequate context to convey the meaning of reported data and the department's understanding of the meaning of trends that may appear in that data; (ii) eliminate reports that are no longer necessary; (iii) revise existing reports; and (iv) ensure that reports are timely submitted and made available electronically in accordance with public records laws.

The task force shall also make recommendations relative to: (i) the continued development of the reports and profiles under section 26 of chapter 18B of the General Laws; (ii) the resources required of the department to develop and produce those reports and profiles; (iii) priorities for the department's public reporting requirements as they relate to addressing: (a)

questions underlying legislative reporting requirements relative to foster care review, residential care, services for young adults over the age of 18, educational and placement stability, kinship guardianship subsidies and any other reporting requirements not included in the reports and profiles under said section 26 of said chapter 18B; (b) questions that the department is currently unable to address with existing departmental data including, but not limited to, families with multiple siblings in the department's care; (c) questions concerning the department's delivery of services including, but not limited to, support and stabilization and the effectiveness of such services; (d) questions concerning the department's outcomes and the development of accurate benchmarks to measure those outcomes; and (e) racial disproportionality at decision points in the departmental process by area office.

The task force shall be comprised of the following persons or their designees: the child advocate, who shall serve as co-chair; the commissioner of children and families, who shall serve as co-chair; the chairs of the house and senate committees on ways and means; the chairs of the joint committee on children, families and persons with disabilities; the chief counsel of the committee for public counsel services; the executive director of the Children's League of Massachusetts, Inc.; the executive director of a legal services program to be appointed by the governor; 1 person with expertise in child welfare data and outcome measurement to be appointed by the child advocate; 1 person who is a current or recently former caseworker for the department of children and families to be appointed by SEIU 509; and 1 person with expertise in the department of children and families' information technology, data collection and reporting systems to be appointed by the commissioner of children and families. The task force shall consult with other individuals with relevant expertise, including academics, researchers and service providers, as needed. The task force shall consult with the secretaries of agencies that

address issues that directly affect the child welfare caseload or outcomes including, but not limited to, substance use disorders, domestic violence, mental health and homelessness to determine how best to review and report on agency data relevant to child welfare outcomes.

The task force shall meet at least quarterly. Annually, not later than January 31, the task force shall submit its recommendations, together with drafts of any legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities.

SECTION 16. Item 4800-0015 of section 2 of chapter 41 of the acts of 2019 is hereby amended by striking out the following words:- provided further, that on December 27, 2019, and March 27, 2020, the department shall report to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities on: (i) the fair hearing requests filed in fiscal year 2020, using non-identifying information: to state, for each hearing request: (a) the subject matter of the appeal; (b) the number of days between the hearing request and the first day of the hearing; (c) the number of days between the first day of the hearing and the hearing officer's decision; (d) the number of days between the hearing officer's decision and the agency's final decision; (e) the number of days of continuance granted at the appellant's request; (f) the number of days of continuance granted at the request of the department of children and families or the hearing officer's request, specifying which party made the request; and (g) whether the department's decision that was the subject of the appeal was affirmed or reversed; and (ii) the fair hearing requests filed before fiscal year 2020, which are pending for more than 180 days, stating the number of those cases, how many of those cases have been heard but not decided and how many have been decided by the hearing officer but not

yet issued as a final agency decision; provided further, that the department shall maintain and make available to the public, during regular business hours, a record of its fair hearings, with identifying information removed, including for each hearing request: the date of the request, the date of the hearing decision, the decision rendered by the hearing officer and the final decision rendered upon the commissioner's review; provided further, that the department shall make redacted copies of fair hearing decisions available within 30 days of a written request; provided further, that the department shall not make available any information in violation of federal privacy regulations; provided further, that not later than February 28, 2020, the department shall submit a report to the house and senate committees on ways and means and joint committee on children, families and persons with disabilities that shall include, but not be limited to, the: (1) number of medical and psychiatric personnel and their level of training currently employed by or under contract with the department; (2) number of foster care reviews conducted by the department and the average length of time in which each review is completed; (3) the number of social workers and supervisors who have earned a bachelor's or master's degree in social work; (4) the total number of social workers and the total number of social workers holding licensure, by level; (5) number of the department's contracts reviewed by the state auditor and the number of corrective action plans issued; and (6) number of corrective action plans entered into by the department; provided further, that on the first business day of each quarter, the department shall file a report with the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities on the caseload of the department; provided further, that the report shall include, but not be limited to: (A) the caseloads of residential placements, congregate care, foster care, therapeutic foster care, adoption, guardianship, 51A reports, substantiated 51A reports, the number of children who die in the care and custody of the

department, the number of children currently eligible for supportive child care, the number of children presently receiving supportive child care and the number of medical and psychiatric consultation requests made by the department's social workers; (B) the number of approved foster care placements; (C) the number of children in psychiatric hospitals and community-based acute treatment programs who remain hospitalized beyond their medically-necessary stay while awaiting placement and the number of days each case remains in placement beyond that which is medically necessary; (D) the number of children under the department of children and families' care and custody who are being served in medical or psychiatric care provided through other publicly-funded sources; (E) the number of children served by supervised visitation centers and the number of those children who are reunified with their families; (F) the total number of children served, their ages, the number of children served in each service plan, the number of children in out-of-home placements and the number of placements each child has had before receiving an out-of-home placement; (G) for each area office, the number of kinship guardianship subsidies provided in the quarters covered by the report and the number of kinship guardianship subsidies provided in that quarter for which federal reimbursement was received; (H) for each area office, the total spending on services other than case management services provided to families to keep a child with the child's parents or reunifying the child with the child's parents, spending by the type of service including, but not limited to, the number of children and a breakdown of spending for respite care, intensive in-home services, client financial assistance and flexible funding, community-based after-school social and recreation program services, family navigation services and parent aide services and the unduplicated number of families that receive the services; (I) for each area office, the total number of families residing in shelters paid for by the department, a list of where the families are sheltered, the total

cost and average cost per family of those shelters and a description of how the department determines who qualifies or does not qualify for a shelter; (J) for each area office, the number of requests for voluntary services broken down by type of service requested, whether the request was approved or denied, the number of families that were denied voluntary services and received a 51A report, the reasons for denying the service and what, if any, referrals were made for services by other agencies or entities; (K) the number of families receiving multiple 51A reports within a 10-month period, the number of cases reopened within 6 months of being closed and the number of children who return home and then reenter an out-of-home placement within 6 months; (L) the number of children and families served by the family resource centers by area; and (M) the number of children within the care and custody of the department whose whereabouts are unknown; provided further, that not later than November 1, 2019, the department shall submit a report to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities that details any changes to rules, regulations or guidelines established by the department in the previous fiscal year to carry out its duties under chapter 119 of the General Laws including, but not limited to: (I) criteria used to determine whether a child has been abused or neglected; (II) guidelines for removal of a child from the home; and (III) standards to determine what reasonable efforts are being made to keep a child in the home; provided further, that on a monthly basis, the department of children and families shall provide the caseload forecasting office with data on children receiving services and other pertinent data related to items 4800-0038 and 4800-0041 that is requested by the office; provided further, that the report shall also contain the number of children and families served by the family resource centers by area and an evaluation of the services provided and their effectiveness.

SECTION 17. Annually, not later than October 31, the department of children and families shall submit a special report on services provided to young adults over the age of 18 to the child advocate, the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities. The report shall summarize the process by which a young adult may continue to receive services from the department upon reaching the legal adult age of 18. The report shall also include, but not be limited to: (i) the number of young adults who have elected to sustain a connection with the department in the previous fiscal year; (ii) the number young adults who have elected not to remain with the department and have transitioned out of the child welfare system in the previous fiscal year, including young adults who had previously elected to sustain a connection with the department, if such numbers are available; (iii) the total payments made from commonwealth funds to young adults in the previous fiscal year; and (iv) a description of services provided to young adults by the department in the previous fiscal year, including those funded wholly or in part by federal funds. The department may satisfy the reporting requirements of this section by providing the requested information in an annual report filed under section 26.

SECTION 18. Annually, not later than August 31, the department of children and families shall file a special report on its fair hearing processes and cases with the child advocate, the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities. The report shall be made available to the public electronically in accordance with section 19 of chapter 66 of the General Laws. The report shall include, but not be limited to, information in a form that shall not include personally-identifiable information on the fair hearing requests open at any time

during the previous fiscal year and, for each hearing request, shall provide: (i) the subject matter of the appeal; (ii) the outcomes of cases resolved prior to a fair hearing decision; (iii) the number of days between the hearing request and the first day of the hearing; (iv) the number of days between the close of the evidence and the hearing officer's decision; (v) the number of days of continuance granted at the appellant's request; (vi) the number of days of continuance granted at the request of the department of children and families or the hearing officer's request, specifying which party made the request; and (vii) whether the department's decision that was the subject of the appeal was affirmed or reversed. The department shall maintain and make available to the public, during regular business hours, a record of its fair hearings in a form that shall not include personally-identifiable information and shall include, for each hearing request: (i) the date of the request; (ii) the date of the hearing decision; (iii) the decision rendered by the hearing officer; and (iv) the final decision rendered upon the commissioner's review. The report shall provide for the fair hearing requests that are pending for more than 180 days at any time during the fiscal year, except for those requests which have been stayed at the request of the district attorney, the number of those cases, how many of those cases have been heard but not decided and how many have been decided by the hearing officer but not yet issued a final agency decision. If there are more than 225 fair hearing requests open for more than 180 days at the close of any month of the first 6 months of a fiscal year, then an additional report of these requests shall be provided not later than February 28. The department shall make redacted copies of fair hearing decisions available within 30 days after a written request.

SECTION 19. Section 9 shall take effect on February 1, 2022.

SECTION 20. Subsection (f) of section 26 of chapter 18B shall take effect January 1, 2022.

SECTION 21. Section 16 shall take effect as of July 1, 2019.

SECTION 22. Sections 17 and 18 are hereby repealed.

SECTION 23. Section 21 shall take effect on December 31, 2022.