

HOUSE No. 4163

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 4, 2019.

The committee on Children, Families and Persons with Disabilities, to whom was referred the petition (accompanied by bill, House, No. 4083) of Kay Khan and others relative to reports required to be filed by the Department of Children and Families, reports recommending that the accompanying bill (House, No. 4163) ought to pass.

For the committee,

KAY KHAN.

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The Commonwealth of Massachusetts

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

An Act relative to DCF legislative reporting reform.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for reports to the general court by the department of children and families, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 as appearing in the 2018 Official Edition,
2 is hereby amended by inserting after section 3 the following section: -

3 Section 3A. (a) For the purposes of this section, the term “legislatively mandated report”
4 shall mean a report required by law of the department of children and families.

5 (b)(1) Annually, not later than October 31, the department shall issue a report that
6 provides an overview of the department’s performance during the previous fiscal year. The
7 commissioner or a designee shall file the report with the governor, the child advocate, the clerks
8 of the senate and house of representatives, the chairs of the house and senate committees on
9 ways and means and the joint committee on children, families and persons with disabilities. The
10 commissioner shall provide the recipients of the report with an opportunity to discuss its contents

11 with the commissioner or a designee. The report shall be made publicly available on the
12 department's website in accordance with section 19 of chapter 66.

13 (2) The report shall include, but not be limited to, narratives, information, data and
14 analysis on: (i) counts, including but not limited to: (A) case counts; (B) consumer counts; (C)
15 reports filed pursuant to section 51A of chapter 119; (D) placement metrics; (E) infants brought
16 into the department's care pursuant to section 39½ of chapter 119; and (F) siblings in placement;
17 (ii) processes and outcomes, including but not limited to: (A) safety outcomes, (B) permanency
18 processes and outcomes; (C) the rates of adoptions by race and ethnicity; (D) well-being
19 outcomes, including the rates and timeliness of the delivery of medical services and high school
20 graduation rates; and (iii) operations, including but not limited to: (A) staffing trends; (B)
21 caseloads; (C) the department's budget, including funding levels; (D) service costs; (E) medical
22 services and advancements in providing medical services to children and young adults in the
23 department's care; (F) amounts expended to foster care and to adoptive and guardianship
24 families to provide assistance, including financial assistance, to provide for the care of children;
25 and (G) the foster care review system and any recommendations for its improvement. The report
26 shall also include comparative departmental information from prior fiscal years.

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

33 information, including race and primary language; (v) counts of children and youth in-
34 placement; and (vi) counts of children and youth not in-placement.

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

39 (d) The commissioner or the commissioner's designees shall notify the joint committee
40 on children, families and persons with disabilities when draft regulations are made available by
41 the department for public comment. Not more than 30 days after the promulgation of regulations
42 or the effective date of adopted or revised departmental policies relative to services provided to
43 children and families, the department shall provide the joint committee on children, families and
44 persons with disabilities with copies of the regulations or departmental policies.

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

51 (f)(1) The department, in consultation with the senate and house ways and means
52 committees, the joint committee on children, families and persons with disabilities, other
53 governmental and nongovernmental partners, shall establish a 3-year plan that shall include
54 numerical targets for the department's performance in each year and in each of its regions in the

55 areas of safety, permanence and well-being. The plan shall include a description of how the
56 department will measure its progress toward meeting the numerical targets. The plan may
57 include different targets for different regions. The plan shall be updated annually not later than
58 March 31.

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

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

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

72 (g) A task force for continued review of child welfare data shall convene every 2 years to
73 make recommendations for improvements to the report and profile required under subsections
74 (b) and (c), any other legislatively mandated reports, or the data measures, progress measures,
75 and outcome measures developed pursuant to section 128 of chapter 47 of the acts of 2017. The
76 task force shall consist of the following persons or their designees: the child advocate, who shall

77 serve as co-chair; the commissioner, who shall serve as co-chair; the chairs of the house and
78 senate committees on ways and means; the chairs of the joint committee on children, families
79 and persons with disabilities; 1 member of the senate to be appointed by the minority leader of
80 the senate; 1 member of the house of representatives to be appointed by the minority leader of
81 the house of representatives; the chief counsel of the committee for public counsel services; the
82 executive director of Children’s League of Massachusetts, Inc.; the executive director of a legal
83 services program to be appointed by the governor; 1 person with expertise in child welfare data
84 and outcome measurement to be appointed by the child advocate; 1 person who is a current or
85 recently former caseworker for the department of children and families to be appointed by SEIU
86 509, or a successor organization representing social workers, and 1 person with expertise in the
87 department’s information technology, data collection and reporting systems to be appointed by
88 the commissioner of children and families. The task force shall consult with other individuals
89 with relevant expertise, including academics, researchers and service providers, as needed.

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

95 SECTION 2. Section 6A of said chapter 18B, as so appearing, is hereby amended by
96 striking out the last paragraph.

97 SECTION 3. Section 7 of said chapter 18B, as so appearing, is hereby amended by
98 striking out paragraph (e).

99 SECTION 4. Section 20 of said chapter 18B, as so appearing, is hereby amended by
100 striking out the second sentence.

101 SECTION 5. Section 23 of chapter 18B of the General Laws, inserted by section 45 of
102 chapter 176 of the acts of 2008, is hereby repealed.

103 SECTION 6. Section 23 of chapter 18B of the General Laws, inserted by section 8 of
104 chapter 321 of the acts of 2008, is hereby amended by striking out the sixth sentence.

105 SECTION 7. Section 24 of said chapter 18B of the General Laws, as appearing in the
106 2018 Official Edition, is hereby repealed.

107 SECTION 8. Section 25 of said chapter 18B, as so appearing, is hereby repealed.

108 SECTION 9. Subsection (f) of section 23 of chapter 119 of the General Laws, as so
109 appearing, is hereby amended by striking out the sixth sentence.

110 SECTION 10. Subsection (h) of said section 23 of said chapter 119, as so appearing, is
111 hereby further amended by striking out the second paragraph.

112 SECTION 11. Section 39½ of said chapter 119, as so appearing, is hereby amended by
113 striking out the eighth paragraph.

114 SECTION 12. Section 51D of said chapter 119, as so appearing, is hereby amended by
115 striking out the eighth paragraph.

116 SECTION 13. Section 5E of chapter 210 of the General Laws, as so appearing, is hereby
117 repealed.

118 SECTION 14. Chapter 47 of the acts of 2017 is hereby amended by striking out section
119 128 and inserting in place thereof the following section:-

120 Section 128. There shall be a task force on child welfare data reporting. The task force
121 shall develop basic data measures, progress measures and key outcome measures to inform the
122 general court and the public on the status and demographics of the caseload of the department of
123 children and families and the department's progress in achieving child welfare goals, including
124 safety, permanency and well-being.

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

134 The task force shall make recommendations to: (i) ensure that the department of children
135 and families' reports and profiles under section 3A of chapter 18B of the General Laws include
136 data measures that are clearly defined and provided with adequate context to convey the meaning
137 of reported data and the department's understanding of the meaning of trends that may appear in
138 that data; (ii) eliminate reports that are no longer necessary; (iii) revise existing reports; and (iv)

139 ensure that reports are timely submitted and made available electronically in accordance with
140 public records laws.

141 The task force shall also make recommendations relative to: (i) the continued
142 development of the reports and profiles under section 3A of chapter 18B of the General Laws;
143 (ii) the resources required of the department to develop and produce those reports and profiles;
144 (iii) priorities for the department's public reporting requirements as they relate to addressing: (a)
145 questions underlying legislative reporting requirements relative to foster care review, residential
146 care, services for young adults over the age of 18, educational and placement stability, kinship
147 guardianship subsidies and any other reporting requirements not included in the reports and
148 profiles under said section 3A of said chapter 18B; (b) questions that the department is currently
149 unable to address with existing departmental data including, but not limited to, families with
150 multiple siblings in the department's care; (c) questions concerning the department's delivery of
151 services including, but not limited to, support and stabilization and the effectiveness of such
152 services; (d) questions concerning the department's outcomes and the development of accurate
153 benchmarks to measure those outcomes; and (e) racial disproportionality at decision points in the
154 departmental process by area office.

155 The task force shall be comprised of the following persons or their designees: the child
156 advocate, who shall serve as co-chair; the commissioner of children and families, who shall serve
157 as co-chair; the chairs of the house and senate committees on ways and means; the chairs of the
158 joint committee on children, families and persons with disabilities; the chief counsel of the
159 committee for public counsel services; the executive director of the Children's League of
160 Massachusetts, Inc.; the executive director of a legal services program to be appointed by the
161 governor; 1 person with expertise in child welfare data and outcome measurement to be

162 appointed by the child advocate; and 1 person with expertise in the department of children and
163 families' information technology, data collection and reporting systems to be appointed by the
164 commissioner of children and families. The task force shall consult with other individuals with
165 relevant expertise, including academics, researchers and service providers, as needed. The task
166 force shall consult with the secretaries of agencies that address issues that directly affect the
167 child welfare caseload or outcomes including, but not limited to, substance use disorders,
168 domestic violence, mental health and homelessness to determine how best to review and report
169 on agency data relevant to child welfare outcomes.

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

175 SECTION 15. Item 4800-0015 of section 2 of chapter 41 of the acts of 2019 is hereby
176 amended by striking out the following words:- provided further, that on December 27, 2019, and
177 March 27, 2020, the department shall report to the house and senate committees on ways and
178 means and the joint committee on children, families and persons with disabilities on: (i) the fair
179 hearing requests filed in fiscal year 2020, using non-identifying information: to state, for each
180 hearing request: (a) the subject matter of the appeal; (b) the number of days between the hearing
181 request and the first day of the hearing; (c) the number of days between the first day of the
182 hearing and the hearing officer's decision; (d) the number of days between the hearing officer's
183 decision and the agency's final decision; (e) the number of days of continuance granted at the
184 appellant's request; (f) the number of days of continuance granted at the request of the

185 department of children and families or the hearing officer's request, specifying which party made
186 the request; and (g) whether the department's decision that was the subject of the appeal was
187 affirmed or reversed; and (ii) the fair hearing requests filed before fiscal year 2020, which are
188 pending for more than 180 days, stating the number of those cases, how many of those cases
189 have been heard but not decided and how many have been decided by the hearing officer but not
190 yet issued as a final agency decision; provided further, that the department shall maintain and
191 make available to the public, during regular business hours, a record of its fair hearings, with
192 identifying information removed, including for each hearing request: the date of the request, the
193 date of the hearing decision, the decision rendered by the hearing officer and the final decision
194 rendered upon the commissioner's review; provided further, that the department shall make
195 redacted copies of fair hearing decisions available within 30 days of a written request; provided
196 further, that the department shall not make available any information in violation of federal
197 privacy regulations; provided further, that not later than February 28, 2020, the department shall
198 submit a report to the house and senate committees on ways and means and joint committee on
199 children, families and persons with disabilities that shall include, but not be limited to, the: (1)
200 number of medical and psychiatric personnel and their level of training currently employed by or
201 under contract with the department; (2) number of foster care reviews conducted by the
202 department and the average length of time in which each review is completed; (3) the number of
203 social workers and supervisors who have earned a bachelor's or master's degree in social work;
204 (4) the total number of social workers and the total number of social workers holding licensure,
205 by level; (5) number of the department's contracts reviewed by the state auditor and the number
206 of corrective action plans issued; and (6) number of corrective action plans entered into by the
207 department; provided further, that on the first business day of each quarter, the department shall

208 file a report with the house and senate committees on ways and means and the joint committee
209 on children, families and persons with disabilities on the caseload of the department; provided
210 further, that the report shall include, but not be limited to: (A) the caseloads of residential
211 placements, congregate care, foster care, therapeutic foster care, adoption, guardianship, 51A
212 reports, substantiated 51A reports, the number of children who die in the care and custody of the
213 department, the number of children currently eligible for supportive child care, the number of
214 children presently receiving supportive child care and the number of medical and psychiatric
215 consultation requests made by the department's social workers; (B) the number of approved
216 foster care placements; (C) the number of children in psychiatric hospitals and community-based
217 acute treatment programs who remain hospitalized beyond their medically-necessary stay while
218 awaiting placement and the number of days each case remains in placement beyond that which is
219 medically necessary; (D) the number of children under the department of children and families'
220 care and custody who are being served in medical or psychiatric care provided through other
221 publicly-funded sources; (E) the number of children served by supervised visitation centers and
222 the number of those children who are reunified with their families; (F) the total number of
223 children served, their ages, the number of children served in each service plan, the number of
224 children in out-of-home placements and the number of placements each child has had before
225 receiving an out-of-home placement; (G) for each area office, the number of kinship
226 guardianship subsidies provided in the quarters covered by the report and the number of kinship
227 guardianship subsidies provided in that quarter for which federal reimbursement was received;
228 (H) for each area office, the total spending on services other than case management services
229 provided to families to keep a child with the child's parents or reunifying the child with the
230 child's parents, spending by the type of service including, but not limited to, the number of

231 children and a breakdown of spending for respite care, intensive in-home services, client
232 financial assistance and flexible funding, community-based after-school social and recreation
233 program services, family navigation services and parent aide services and the unduplicated
234 number of families that receive the services; (I) for each area office, the total number of families
235 residing in shelters paid for by the department, a list of where the families are sheltered, the total
236 cost and average cost per family of those shelters and a description of how the department
237 determines who qualifies or does not qualify for a shelter; (J) for each area office, the number of
238 requests for voluntary services broken down by type of service requested, whether the request
239 was approved or denied, the number of families that were denied voluntary services and received
240 a 51A report, the reasons for denying the service and what, if any, referrals were made for
241 services by other agencies or entities; (K) the number of families receiving multiple 51A reports
242 within a 10-month period, the number of cases reopened within 6 months of being closed and the
243 number of children who return home and then reenter an out-of-home placement within 6
244 months; (L) the number of children and families served by the family resource centers by area;
245 and (M) the number of children within the care and custody of the department whose
246 whereabouts are unknown; provided further, that not later than November 1, 2019, the
247 department shall submit a report to the house and senate committees on ways and means and the
248 joint committee on children, families and persons with disabilities that details any changes to
249 rules, regulations or guidelines established by the department in the previous fiscal year to carry
250 out its duties under chapter 119 of the General Laws including, but not limited to: (I) criteria
251 used to determine whether a child has been abused or neglected; (II) guidelines for removal of a
252 child from the home; and (III) standards to determine what reasonable efforts are being made to
253 keep a child in the home; provided further, that on a monthly basis, the department of children

254 and families shall provide the caseload forecasting office with data on children receiving services
255 and other pertinent data related to items 4800-0038 and 4800-0041 that is requested by the
256 office; provided further, that the report shall also contain the number of children and families
257 served by the family resource centers by area and an evaluation of the services provided and their
258 effectiveness.

259 SECTION 16. Annually, not later than October 31, the department of children and
260 families shall submit a special report on services provided to young adults over the age of 18 to
261 the child advocate, the clerks of the senate and house of representatives, the house and senate
262 committees on ways and means and the joint committee on children, families and persons with
263 disabilities. The report shall summarize the process by which a young adult may continue to
264 receive services from the department upon reaching the legal adult age of 18. The report shall
265 also include, but not be limited to: (i) the number of young adults who have elected to sustain a
266 connection with the department in the previous fiscal year; (ii) the number young adults who
267 have elected not to remain with the department and have transitioned out of the child welfare
268 system in the previous fiscal year, including young adults who had previously elected to sustain a
269 connection with the department, if such numbers are available; (iii) the total payments made
270 from commonwealth funds to young adults in the previous fiscal year; and (iv) a description of
271 services provided to young adults by the department in the previous fiscal year, including those
272 funded wholly or in part by federal funds. The department may satisfy the reporting
273 requirements of this section by providing the requested information in an annual report filed
274 under section 3A of chapter 18B of the General Laws.

275 SECTION 17. Annually, not later than August 31, the department of children and
276 families shall file a special report on its fair hearing processes and cases with the child advocate,

277 the clerks of the senate and house of representatives, the house and senate committees on ways
278 and means and the joint committee on children, families and persons with disabilities. The report
279 shall be made available to the public electronically in accordance with section 19 of chapter 66
280 of the General Laws. The report shall include, but not be limited to, information in a form that
281 shall not include personally-identifiable information on the fair hearing requests open at any time
282 during the previous fiscal year and, for each hearing request, shall provide: (i) the subject matter
283 of the appeal; (ii) the outcomes of cases resolved prior to a fair hearing decision; (iii) the number
284 of days between the hearing request and the first day of the hearing; (iv) the number of days
285 between the close of the evidence and the hearing officer's decision; (v) the number of days of
286 continuance granted at the appellant's request; (vi) the number of days of continuance granted at
287 the request of the department of children and families or the hearing officer's request, specifying
288 which party made the request; and (vii) whether the department's decision that was the subject of
289 the appeal was affirmed or reversed. The department shall maintain and make available to the
290 public, during regular business hours, a record of its fair hearings in a form that shall not include
291 personally-identifiable information and shall include, for each hearing request: (i) the date of the
292 request; (ii) the date of the hearing decision; (iii) the decision rendered by the hearing officer;
293 and (iv) the final decision rendered upon the commissioner's review. The report shall provide for
294 the fair hearing requests that are pending for more than 180 days at any time during the fiscal
295 year, except for those requests which have been stayed at the request of the district attorney, the
296 number of those cases, how many of those cases have been heard but not decided and how many
297 have been decided by the hearing officer but not yet issued a final agency decision. If there are
298 more than 225 fair hearing requests open for more than 180 days at the close of any month of the
299 first 6 months of a fiscal year, then an additional report of these requests shall be provided not

300 later than February 28. The department shall make redacted copies of fair hearing decisions
301 available within 30 days after a written request.

302 SECTION 18. Subsection (f) of section 3A of chapter 18B of the General Laws shall take
303 effect on January 1, 2022.

304 SECTION 19. Subsection (g) of section 3A of chapter 18B of the General Laws shall
305 take effect on February 1, 2022.

306 SECTION 20. Section 15 shall take effect as of July 1, 2019.

307 SECTION 21. Sections 17 and 18 are hereby repealed.

308 SECTION 22. Section 21 shall take effect on December 31, 2022.