

SENATE No. 29

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

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:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2019</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>	<i>6/17/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>7/8/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>8/20/2019</i>

SENATE No. 29

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 29) of Joanne M. Comerford, Mindy Domb and Sal N. DiDomenico for legislation to establish 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 SECTION 2. The General Laws are hereby amended by inserting after Chapter 18C the
4 following chapter:- CHAPTER 18D. FOSTER CARE REVIEW OFFICE.

5 Section 1. As used in this chapter, the following words shall have the following
6 meanings, unless otherwise noted:

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

8 “CASA”, court appointed special advocate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 ii. Guidelines regarding citizen reviewer qualifications and recruitment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

92 (e) The board shall:

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

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

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

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

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

108 Section 5. (a) The FCRO shall designate local panels of citizen reviewers, in
109 geographical locations that correspond with the department's service areas, to conduct foster care
110 case reviews. The number of panels required is determined by the FCRO in accordance with the
111 number of children, youth and young adults in foster care placement within each service area.
112 The executive director of the office shall create and implement citizen volunteer recruitment

113 efforts and select citizen volunteers from local areas to serve on local panels. A person employed
114 by the FCRO, the department, a child welfare agency or juvenile and probate/family courts shall
115 not be appointed to a local panel with the exception of a foster care or kinship individual.

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

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

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

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

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

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

127 (5) Progress made toward the permanency goal;

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

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

130 (8) Goals for the next six months;

131 (9) Additional findings and recommendations in accordance with the
132 child/youth/young adult’s best interest.

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

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

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

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

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

150 (b) The council shall:

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

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

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

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

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

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

168 Section 10. (a) The FCRO executive director shall report annually to the governor, the
169 president of the senate, the speaker of the house of representatives, the joint committee, the chief
170 justices of the juvenile and the probate and family courts, the secretary and the commissioner of
171 the department on the activities of the FCRO, including but not limited to statistics and analysis

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

176 (b) The report shall be made public.

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