HOUSE DOCKET, NO. 1039 FILED ON: 2/1/2021

HOUSE . . . . . No. 211

The Commonwealth of Massachusetts

PRESENTED BY:

Tricia Farley-Bouvier and Paul J. Donato

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing the Massachusetts foster care review office.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Tricia Farley-Bouvier	*3rd Berkshire*	*2/1/2021*
Paul J. Donato	*35th Middlesex*	*2/12/2021*
Joseph D. McKenna	*18th Worcester*	*2/2/2021*
David Henry Argosky LeBoeuf	*17th Worcester*	*2/8/2021*
Colleen M. Garry	*36th Middlesex*	*2/11/2021*
Daniel R. Carey	*2nd Hampshire*	*2/16/2021*
Patricia A. Duffy	*5th Hampden*	*2/16/2021*
Natalie M. Blais	*1st Franklin*	*2/17/2021*
David F. DeCoste	*5th Plymouth*	*2/19/2021*
John Barrett, III	*1st Berkshire*	*2/23/2021*
David Allen Robertson	*19th Middlesex*	*2/25/2021*
James K. Hawkins	*2nd Bristol*	*2/26/2021*
Mary S. Keefe	*15th Worcester*	*2/26/2021*
James B. Eldridge	*Middlesex and Worcester*	*2/26/2021*
Carol A. Doherty	*3rd Bristol*	*2/26/2021*
Tommy Vitolo	*15th Norfolk*	*3/25/2021*
Bradley H. Jones, Jr.	*20th Middlesex*	*3/30/2021*
Jacob R. Oliveira	*7th Hampden*	*6/15/2021*

Thomas M. Stanley	*9th Middlesex*	*8/23/2021*
Andres X. Vargas	*3rd Essex*	*11/29/2021*
James J. O'Day	*14th Worcester*	*1/4/2022*

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HOUSE . . . . . No. 211

By Representatives Farley-Bouvier of Pittsfield and Donato of Medford, a petition (accompanied by bill, House, No. 211) of Tricia Farley-Bouvier, Paul J. Donato and others relative to establishing the Massachusetts foster care review office. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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:

SECTION 1. Chapter 18B of the General Laws is hereby amended by striking section 6A.

SECTION 2. The General Laws are hereby amended by inserting after Chapter 18C the following chapter: - CHAPTER 18D. FOSTER CARE REVIEW OFFICE.

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

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

“Council”, foster care review office interdisciplinary council.

“Department”, the department of children and families.

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

"FCRO", the foster care review office created pursuant to this chapter.

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

"Local panel", a foster care review panel of trained volunteer citizen reviewers and FCRO staff created pursuant to this chapter.

"Parties", all parties involved in a specific child, youth or young adult case.

"Permanency", a legal, permanent family living arrangement.

"Secretary", the secretary of the executive office of health and human services.

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

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

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

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

(i) Policies and procedures regarding the duties of FCRO staff including the scheduling and conduct of case reviews, advanced notice to parties to the case, development of individual case review reports including findings and recommendations, dissemination of individual case review reports to the parties, and follow-up of individual cases;

(ii) Guidelines regarding citizen reviewer qualifications and recruitment;

(iii) Training programs for citizen reviewers which shall include an initial training program and periodic in-service training programs;

(iv) Policies and procedures for local panels in the conduct of individual case reviews;

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

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

(vii) Content and format of periodic and annual FCRO aggregate reports.

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

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

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

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

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

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

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

Section 4. (a) The board shall have a maximum of 15 members and be as geographically diverse as possible. Membership shall include the state's child advocate or designee, a representative from Friends of Children, a representative of the Children's League of Massachusetts, a legal representative of the child and family division of the committee for public counsel services, a pediatrician with expertise in the area of adverse childhood experiences, a representative of Citizens for Juvenile Justice, a representative of the Massachusetts Alliance for Families, a representative from a parent advocacy organization, 2 representatives from an adult foster care alumni organization, a representative from Massachusetts commission on LGBTQ youth, a representative of an organization with expertise in racial disproportionality and equity, 1 former department staff reviewer, and 2 citizen volunteer reviewers with a minimum of 5 years' experience as a reviewer.

(b) The child advocate and Friends of Children representative shall function as co-chairs.

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

(d) The terms of the members shall be for 3 years, with the exception of the child advocate who may serve while acting as the child advocate. Members shall not serve more than two consecutive terms, except that members shall serve until their successors have been appointed.

(e) The Board shall meet at least 4 times each calendar year. Each member shall attend at least 2 meetings each calendar year and shall be subject to removal for failure to attend at least 2 meetings unless excused by a majority of the members of the board.

(f) The board shall:

(1) Recommend a FCRO executive director to be appointed by a majority vote of the governor, attorney general and auditor.

(2) Hire and fire the executive director for the FCRO;

(3) Annually set the salary of the executive director; and

(4) Support and facilitate the work of the FCRO.

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

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

Section 5. (a) The FCRO shall designate local panels of citizen reviewers, in geographical locations that correspond with the department's service areas, to conduct foster care case reviews. The number of panels required is determined by the FCRO in accordance with the number of children, youth and young adults in foster care placement within each service area. The executive director of the office shall create and implement citizen volunteer recruitment efforts and select citizen volunteers from local areas to serve on local panels. A person employed by the FCRO, the department, a child welfare agency or juvenile and probate or family courts shall not be appointed to a local panel with the exception of a foster care or kinship individual.

(b) Each local panel, comprised of one FCRO staff reviewer and 2 trained citizen reviewers, shall conduct individual foster care case reviews in accordance with the policies and procedures created and implemented by the FCRO.

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

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

(2) Extent of the parties' compliance with the permanency or action plan;

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

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

(5) Progress made toward the permanency goal;

(6) Whether the permanency goal should be amended;

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

(8) Goals for the next 6 months;

(9) Additional findings and recommendations in accordance with the child, youth, or young adult's best interest;

(10) Well-being status of the child or youth; provided, that well-being shall be of the whole child or youth and includes physical health development and safety; psychological and emotional development; social development and behavior; and cognitive development and educational achievement.

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

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

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

Section 7. (a) The FCRO interdisciplinary council shall include commissioner level or designee representation of the department, the office of the child advocate, department of developmental services , department of elementary and secondary education, department of mental health, department of public health, department of transitional assistance , department

youth services and the Massachusetts rehabilitation commission . Experts may be invited to the council meetings to address specific concerns or issues, including racial disproportionality, transition age youth, and issues and needs relating to lesbian, gay, bisexual, transgender or queer people. The council shall be chaired by the FCRO executive director and shall convene at least monthly. The FCRO shall ensure that appropriate services are being delivered in the best interest of the child, youth or young adult.

(b) The council shall:

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

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

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

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

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

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

Section 10. (a) The FCRO executive director shall report annually to the governor, the president of the senate, the speaker of the house of representatives, the joint committee on children, families and persons with disabilities, the chief justices of the juvenile and the probate and family courts, the secretary and the commissioner of the department on the activities of the FCRO, including but not limited to statistics and analysis of aggregate data from the foster care reviews regarding strengths, issues, policy concerns, and problems which have come to the attention of the FCRO and the executive director from analysis of the aggregate data. The executive director shall make recommendations to address the issues, concerns and problems identified.

(b) The reports shall be made public.

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