HOUSE DOCKET, NO. 2821 FILED ON: 2/18/2021

HOUSE . . . . . No. 220

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:
Sean Garballey	*23rd Middlesex*	*2/18/2021*

HOUSE DOCKET, NO. 2821 FILED ON: 2/18/2021

HOUSE . . . . . No. 220

By Mr. Garballey of Arlington, a petition (accompanied by bill, House, No. 220) of Sean Garballey for legislation to establish an interagency child welfare task force. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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

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:

SECTION 1. Chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, section 215 and inserting in place thereof the following section:-

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

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

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

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

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

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

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

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

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

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

“(o) The commissioner, in consultation with the child advocate and other agencies the commissioner deems relevant, including, but not limited to, the Massachusetts District Attorneys Association, the Massachusetts chapter of the National Association of Social Workers, the Massachusetts Medical Society, the Massachusetts Teachers’ Association and private child service providers shall, if available, adapt, implement and maintain from another state agency or from any suitable program already in use in another state a free standardized online training program to be completed by all mandated reporters as defined in section 21 of chapter 119, and as referenced in section 51A(k) of chapter 119; provided, however, that if the commissioner

cannot find an existing program to adapt to this purpose, then the commissioner shall create, implement, maintain and update such an online training program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i.The child is at least 12 years of age;

ii.The court has determined after a hearing under section 29B of chapter 119 that adoption is no longer the permanency plan for the child; and

iii.Either the child has not been adopted or, if the child has been adopted, a court has entered an order terminating the parental rights of the child's adoptive parents or the adoptive parents have voluntarily surrendered their parental rights.

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

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

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

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

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