

# HOUSE . . . . . No. 4974

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Substituted by the House, on motion of Mr. Finn of West Springfield, for a report of the committee on Children, Families and Persons with Disabilities, ought NOT to pass (under Joint Rule 10), on a petition (accompanied by bill, House, No. 4787) of Michael J. Finn relative to child welfare protections. July 5, 2022.

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## The Commonwealth of Massachusetts

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

An Act enhancing child welfare protections.

*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. Clause (22) of subsection (a) of section 172 of chapter 6 of the General  
2   Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, in line 133,  
3   the words “2A of chapter 38” and inserting in place thereof the following words: “16 of chapter  
4   18C.”

5           SECTION 2. Section 6A of chapter 18B of the General Laws, as appearing, in the 2020  
6   Official Edition, is hereby amended by striking out the fifth paragraph.

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

9           SECTION 4. Chapter 18B of the General Laws, as appearing in the 2020 Official  
10   Edition, is hereby amended by inserting after section 9 the following 2 sections:-

Section 9A. The commissioner shall appoint an education director to support the department's goal of educational stability and success for all elementary and secondary school students under the care and custody of the department.

The education director's duties shall include, but shall not be limited to: (i) developing, implementing and overseeing the department's policies on education for children under the care and custody of the department, including policy development and practice guidance; (ii) monitoring state and federal laws, programs and resources that may impact the education of children under the care and custody of the department; (iii) advising the commissioner and all education specialists on all matters relating to education, strategic education initiatives, policy, and practice management matters; (iv) coordinating efforts with area office based education specialists to identify and address systemic barriers to accessing educational services for children under the care and custody of the department, including issues related to transportation for children in department care or custody to attend their school of origin; (v) coordinating with department area and regional offices on education related issues; and (vi) facilitating best practice training for area office-based education specialists.

The education director shall perform such duties as are described in this chapter and such other duties as may be assigned by the commissioner.

Section 9B. The commissioner, with the advice of the education director and the area director, shall appoint at least 1 full-time education specialist at each area office. Said education specialist shall be an employee of the area office and devote full time to the duties of the office.

The focus of each education specialist's duties shall include, but shall not be limited to: (i) implementing and overseeing the area office's work on education for children receiving

33 services from the department, consistent with the policies created by the department's education  
34 director; (ii) monitoring student academic progress of children under the care and custody of the  
35 area office not less than once per academic quarter; (iii) providing support and assistance to  
36 department caseworkers regarding educational needs of children; (iv) providing detailed training  
37 to department caseworkers on the best practices to monitor a child's education experiences,  
38 recognizing any unavailability of resources preventing a child from participating in school  
39 courses, and developing individual education plans or 504 plan; (v) ensuring the timeliness and  
40 accuracy of the transfer of education records detailing a child's educational background and  
41 needs; and (vi) maintaining contact with appropriate local school districts and education  
42 organizations to facilitate enrollment, information sharing, and placement of children into school  
43 districts served by the area office.

44 SECTION 5. Section 20 of said chapter 18B, as so appearing, is hereby amended by  
45 striking out the second sentence.

46 SECTION 6. Section 23 of said chapter 18B, inserted by section 45 of chapter 176 of the  
47 acts of 2008, is hereby repealed.

48 SECTION 7. Section 23 of said chapter 18B, inserted by section 8 of chapter 321 of the  
49 acts of 2008, is hereby amended by striking out the sixth sentence.

50 SECTION 8. Sections 24 and 25 of said chapter 18B are hereby repealed.

51 SECTION 9. Said chapter 18B is hereby further amended by adding the following 3  
52 sections:-

Section 26. (a) For the purposes of this section, the term “legislatively mandated report” shall mean a report required by law of the department of children and families.

(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 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 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) consumer demographic information, including age, race, ethnicity, primary language, birth sex, gender identity, sexual orientation and disability; (D) intersectional data; (E) rates of racial disproportionality and disparity at various decision points throughout the life of a case, including but not limited to; (1) protective intakes and responses: (2) consumer children 0-17 years of age with an open case as compared to the proportion of the child population in Massachusetts; (3) the number of children and youth in placement by placement type; (4) permanency plans for children and youth in placement, including plans meeting the federal permanency standard; (5) permanency outcome as compared to children in placement; (6) the median placement length of stay in days for children who exited care as well as for children who were in out-of-home care; (7) placement moves per 1,000 placement days for children who entered care during the specified fiscal year; (8) exits from care to reunification, adoption and guardianship as a rate of

all exits from placement; (9) youth aging out as a rate of all exits from placement; (F) the approximate number of requests for reasonable accommodations; (G) the number of disability related complaints filed with the department; (H) reports filed pursuant to section 51A of chapter 119; (I) placement metrics; (J) infants brought into the department's care pursuant to section 39½ of chapter 119; (K) siblings in placement; (ii) processes and outcomes including, but not limited to: (A) protective responses and safety outcomes; (B) the number of fatalities including the manner of death and fatalities by family history with the department; (C) permanency processes and outcomes, including, but not limited to, reunification, adoption, guardianship and aging out; (D) well-being outcomes, including the rates and timeliness of the delivery of medical and behavioral health services; (E) educational well-being outcomes, including but not limited to: (1) school placement information; (2) the number of Individualized Education Plans; (3) attendance rates; (4) high school graduation rates and (5) school disciplinary actions; and (iii) operations, including but not limited to: (A) staffing trends; (B) caseloads; (C) the department's budget, including funding levels; (D) service costs, including but not limited to, departmental foster care, contracted foster care, complex medical foster care, congregate care, adoption and guardianship subsidies, foster care support services, respite and support and stabilization; (E) medical services and advancements in providing medical services to children and young adults in the department's care; (F) the foster care review system and any recommendations for its improvement, including but not limited to: (1) the department served population, including but not limited to case counts, child/youth/young adult and parent/caregiver counts and children/youth/young adults in placement; (2) a foster care review overview, including but not limited to foster care review policy, numbers of children/youth/young adults in placement with a convened foster care review and foster care review considerations; (3) scheduling, including but

not limited to scheduled and convened foster care review meetings, children/youth/young adults reviewed, duration of meetings and timeliness of foster care review report completion; (4) attendance, including but not limited to foster care review meeting panel composition and mandated participants invited and attended; (5) the review process, including but not limited to the department action plan; placement activities; social worker contact; parent-child visitation; health, education and well-being needs; information on youth/young adults and systemic barriers for children/youth/young adults and parents/caregivers; (6) foster care review determinations; (7) minority opinions, including but not limited to minority opinions by panel member and (8) foster care review follow-up activities; (G) services and accommodations available to caregivers and children who are individuals with disabilities; (H) the department's ombudsman including, but not limited to, a summary of the complaints filed by type, and complaints by regional office that is primarily involved with the complaint and involved in the case; (I) the department's efforts, including the use of culturally competent staffing, resources and practices, to reduce overrepresentation of children and youth of minority populations in the child welfare system; and (J) any new or ongoing initiatives to improve practices, procedures and policy of the department. The department may provide additional narrative pursuant to health, mental health, disability and disproportionality related metrics where numerical metrics are not available. This report shall follow the filing requirements of subsection (b).

The report shall also include comparative departmental information from prior fiscal years.

(c)(1) Quarterly, not more than 45 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 but not limited to counts of reports received, screened-in and screened-out ; (iii) rates and recurrence of maltreatment; (iv) department case counts, including counts of clinical and adoption cases; (v) consumer demographic information, including age, race, ethnicity, primary language, birth sex, gender identity and sexual orientation and disability; (vi) counts of children and youth in placement by type of placement; and (vii) counts of children and youth not in placement.

(2) The commissioner or 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 designee 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 copies of the regulations or departmental policies to the joint committee on children, families and persons with disabilities.

(e) If the department is unable to submit the report under subsection (b), issue the profile under subsection (c) 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) The department, in consultation with the general court, other governmental and nongovernmental partners, shall establish a 5-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 and may include different targets for different regions. The department shall update the plan annually.

Annually, the department shall measure its performance in meeting the targets established in the 5-year plan for the commonwealth as a whole and for each of its regions consistent with the methodology described in the plan. The department shall publish and maintain on its website the current plan, the targets for previous years and the department's performance in meeting those targets.

If in a fiscal year the department is unable to develop or update the 5-year plan or measure its performance, the department shall notify the clerks of the house or representatives and senate, the house and senate committees on ways and means, the joint committee on children, families and persons with disabilities and the child advocate.

Section 27. Annually, not later than October 31, the department 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 consumer demographic information detailing age, race, ethnicity, primary language, gender identity, sexual orientation, disability and rates of racial disproportionality and disparity 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; and (ii) the number of 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. The department may satisfy the reporting requirements of this section by providing the requested information in an annual report filed under section 26.

Section 28. Annually, not later than October 31, the department 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 department may satisfy the reporting requirement of this section by providing the requested information in an annual report filed under section 26. The report shall be made available to the public electronically in accordance with section 19 of chapter 66. 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

188 at the request of the department or the hearing officer, specifying which party made the request;  
189 and (vii) whether the department's decision that was the subject of the appeal was affirmed or  
190 reversed.

191 The department shall maintain and make available to the public during regular business  
192 hours, a record of its fair hearings in a form that shall not include personally identifiable  
193 information and that shall include, for each hearing request: (i) the date of the request; (ii) the  
194 date of the hearing decision; (iii) the decision rendered by the hearing officer; and (iv) the final  
195 decision rendered upon the commissioner's review. For fair hearing requests that are pending for  
196 more than 180 days at any time during the fiscal year, except for those requests which have been  
197 stayed at the request of the district attorney, the report shall provide the number of such cases,  
198 how many of those cases have been heard but not decided and how many have been decided by  
199 the hearing officer but not yet issued a final agency decision.

200 If there are more than 225 fair hearing requests open for more than 180 days at the close  
201 of any month during the first 6 months of a fiscal year, then an additional report of such requests  
202 shall be provided not later than April 30. The department shall make redacted copies of fair  
203 hearing decisions available not later than 30 days after a written request.

204 SECTION 10. Section 1 of chapter 18C of the General Laws, as so appearing, is hereby  
205 amended by striking out the definition of "Advisory council".

206 SECTION 11. Section 2 of said chapter 18C, as so appearing, is hereby amended by  
207 striking out, in lines 2 and 3, the words "shall be independent of any supervision or control by  
208 any executive agency" and inserting in place thereof the following words:- shall be an

209 independent public entity not subject to the supervision and control of any other executive office,  
210 department, commission, board, bureau, agency or political subdivision of the commonwealth.

211 SECTION 12. Said section 2 of said chapter 18C, as so appearing, is hereby further  
212 amended by striking out, in line 17, the second time it appears, the word “and”.

213 SECTION 13. Said section 2 of said chapter 18C is hereby further amended by striking  
214 out, in line 20, the word “services.” and inserting in place thereof the following words:-  
215 “services; and”.

216 SECTION 14. Said section 2 of said chapter 18C, as so appearing, is hereby further  
217 amended by adding the following subsection:-

218 (f) examine disproportionality related to topics including, but not limited to, race,  
219 ethnicity, disability status, transgender status, sexual orientation or gender identity within child  
220 welfare systems, services and agencies.

221 SECTION 15. Said section 2 of said chapter 18C, as so appearing, is hereby further  
222 amended by adding the following 5 paragraphs:-

223 The office shall create and maintain a website that makes available mandated reporter  
224 trainings, guidance, statutory reference and best practices materials in 1 online location to all  
225 mandated reporters in the commonwealth. The website shall also contain a list of available  
226 resources for families struggling with poverty and guidance on how mandated reporters can  
227 connect individuals or families to those resources. The office shall consult with, or partner with,  
228 any public or private entity that the child advocate deems relevant to create and maintain this  
229 website. The office shall be responsible for ensuring that information on the website remains

230 current. The office shall collect data on how many individuals access the website. The website  
231 shall be made available to the public within one year of the effective date of this legislation.

232 The office shall create and make available to the public, on the website created in this  
233 section, evidence-based mandated reporter training for all mandated reporters in the  
234 commonwealth. The training shall include, but is not limited to, training in child abuse and  
235 neglect reporting, implicit bias training, technical instruction on how to file a 51A report and  
236 details on the department's process regarding the filing and treatment of 51A reports. Training  
237 shall also include over-reporting prevention, including, but not limited to, how to address  
238 concerns with families and children when those concerns do not rise to the level of requiring a  
239 maltreatment report, methods of connecting families with needed supports and resources and  
240 how to understand the difference between poverty and neglect.

241 The office may, as appropriate, expand, update or amend mandated reporter training. The  
242 office may create additional evidence-based mandated reporter trainings for specific groups of  
243 individuals such as educators, childcare workers, social workers and foster parents. The office of  
244 the child advocate may consult, or partner with, any public or private entity that the child  
245 advocate deems relevant to create, update, expand, implement or amend any mandated reporter  
246 trainings the office creates. As needed, the office shall solicit feedback on mandated reporter  
247 training from mandated reporters who have participated in the training created by the office.

248 After the website is made available to the public, and every two years thereafter, the  
249 office shall seek input from the public, advocates and diverse stakeholders from across the  
250 commonwealth on the mandated reporter training and website, including but not limited to input  
251 on its effectiveness and relevance. The comment period must be open for a minimum of 30 days

and shall begin on the first day of a fiscal year. The office must compile and publicly respond in aggregate to any comments received.

Further, the office must include in its annual report data on the use and effectiveness of the training.

SECTION 16. Said chapter 18C is hereby further amended by inserting after section 2 the following section:-

Section 2A. In addition to the powers set forth in section 2, the child advocate, or the child advocate's designee, may intervene in proceedings before the juvenile court described in section 24 of chapter 119 in which matters related to this chapter are in issue. This power shall be limited to extraordinary circumstances when the child advocate believes, in the child advocate's sole discretion, that a child is in imminent danger and the child advocate's intervention is required to ensure an appropriate presentation of the matter is made in court. This section confers upon the child advocate or designee the authority to represent the office in court.

SECTION 17. Section 3 of said chapter 18C, as appearing in the 2020 Official Edition, is hereby amended by inserting after the word "health", in line 10, the following words:- "the speaker of the house of representatives, or designee; the senate president, or designee; the house minority leader, or designee; the senate minority leader, or designee; a person with experience in the child welfare system to be designated by the Massachusetts Network of Foster Care Alumni; a person with experience as a foster parent to be designated by the Massachusetts Alliance for Families".

SECTION 18. The fourth paragraph of said section 3 of said chapter 18C, as so appearing, is hereby further amended by adding the following sentence:- “The child advocate’s annual salary shall be 80 per cent of the salary of the chief justice of the supreme judicial court.”

SECTION 19. Said chapter 18C is hereby further amended by striking out section 4 and inserting in place thereof the following section:-

“Section 4. The child advocate shall meet with the governor, the speaker of the house of representatives, the senate president, the attorney general, the state auditor and the chief justice of the juvenile court at least annually and shall present the annual goals of the office and its plans for monitoring the work, including the continuous quality improvement, of the child service agencies and the identification of any critical gaps and issues relating to interagency collaboration.”

SECTION 20. Section 5 of said chapter 18C, as so appearing, is hereby amended by adding the following subsection:-

“(i) The child advocate shall notify the governor, the attorney general, the auditor, the speaker of the house of representatives and the senate president when investigating a critical incident pursuant to this section that results in the death of a child due to a reasonable belief that an executive agency or constituent agency failed in its duty to protect a child. In order to ensure the integrity and independence of the office, the governor, the attorney general, the auditor, the speaker of the house of representatives and the senate president shall receive the final results of such an investigation before any executive office, agency or program that is the subject of said investigation.

293           SECTION 21. Section 6 of said chapter 18C, as so appearing, is hereby amended by  
294 adding the following sentence:- “The child advocate is entitled to obtain from the clerks of the  
295 juvenile court or probate and family court information on the dates and the title or summary of  
296 what occurred on these dates showing the progression of an active court case to which the  
297 department is a party.”

298           SECTION 22. Section 10 of said chapter 18C, as so appearing, is hereby amended by  
299 inserting after the number “5” in line 7 the following words:- “, data described in section 2 of  
300 this chapter related to the mandated reporter training and website”.

301           SECTION 23. Said section 10 of said chapter 18c, as so appearing, is hereby further  
302 amended by inserting the following paragraph:-

303           “Annually, following the release of the Office of the Child Advocate’s Annual Report,  
304 there shall be a public comment period, to be at least 30 days, in which the public, stakeholders  
305 and advocacy organizations may submit comments via electronic means, in writing or in-person  
306 at meeting(s) that shall be convened by the Child Advocate for this purpose. Responses to these  
307 comments in the aggregate are to be posted on the Office of the Child Advocate’s website.”

308           SECTION 24. Section 11 of said chapter 18C, as so appearing, is hereby amended by  
309 striking out, in lines 1 and 2, the words “, in consultation with the advisory council,”.

310           SECTION 25. Section 12 of said chapter 18C, as so appearing, is hereby amended by  
311 inserting, in line 36, after the word “personnel,” the following words:- the speaker of the house  
312 of representatives, the senate president.

SECTION 26. Said chapter 18C, as so appearing, is hereby further amended by adding the following 2 sections:-

Section 15. The office shall, annually, oversee the review of child welfare data reporting and make recommendations for improvements to the report and profile required under subsections (b) and (c) of section 26 of chapter 18B and any other legislatively mandated reports, or the data measures, progress measures, and outcome measures pursuant to section 128 of chapter 47 of the acts of 2017. Following the release of the department's annual report, the office shall seek input from the public, advocates and diverse stakeholders from across the commonwealth. The office shall consult with other individuals with relevant expertise, including academics, researchers and service providers. Annually, not later than January 15, the office shall post a report on its recommendations, together with drafts of any legislation necessary to carry its recommendations into effect and an aggregate response to the comments raised during the comment period on the Office of the Child Advocate's website.

Section 16. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Child”, a person under the age of 18.

“Fatality”, a death of a child.

“Local team”, a local child fatality review team established in subsection (c).

“Near fatality”, an act that, as certified by a physician, places a child in serious or critical condition.

“State team”, the state child fatality review team established in subsection (b).



“Team”, the state or a local team.

(b) There shall be a state child fatality review team within the office. Notwithstanding section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of state police on behalf of the child advocate. All members shall serve without compensation for their duties associated with membership on the state team.

The state team shall consist of not less than: (i) the child advocate, or designee, who shall serve as co-chair; (ii) the commissioner of public health, or designee, who shall serve as co-chair; (iii) the chief medical examiner, or designee; (iv) the attorney general, or designee; (v) the commissioner of children and families, or designee; (vi) the commissioner of elementary and secondary education, or designee; (vii) a representative selected by the Massachusetts District Attorneys Association; (viii) the colonel of state police, or designee; (ix) the commissioner of mental health, or designee; (x) the commissioner of developmental services, or designee; (xi) the director of the Massachusetts Center for Unexpected Infant and Child Death at Boston Medical Center, or designee; (xii) the commissioner of youth services, or designee; (xiii) the commissioner of early education and care, or designee; (xiv) a representative selected by the Massachusetts chapter of the American Academy of Pediatrics who has experience in diagnosing or treating child abuse and neglect; (xv) a representative selected by the Massachusetts Health and Hospital Association, Inc.; (xvi) the president of the Massachusetts Chiefs of Police Association Incorporated, or designee; and (xvii) any other person, selected by the co-chairs or by majority vote of the members of the state team, with expertise or information relevant to an individual case. The purpose of the state team shall be to decrease the incidence of preventable child fatalities and near fatalities by: (1) developing an understanding of the causes and incidence

of child fatalities and near fatalities; and (2) advising the governor, the general court and the public by recommending changes in law, policy and practice to prevent child fatalities and near fatalities. The state team may consult with the chief justice of the juvenile court department of the trial court of the commonwealth on issues with a direct bearing upon the business of the Massachusetts courts.

To achieve its purpose, the state team shall: (i) develop model investigative and data collection protocols for local teams; (ii) provide information to local teams and law enforcement agencies for the purpose of protecting children; (iii) provide training and written materials to local teams to assist them in carrying out their duties; (iv) review reports from local teams; (v) study the incidence and causes of child fatalities and near fatalities in the commonwealth; (vi) analyze community, public and private agency involvement with the children and their families prior to and subsequent to fatalities or near fatalities; (vii) develop a protocol for the collection of data regarding fatalities and near fatalities and provide training to local teams on the protocol; (viii) develop and implement rules and procedures necessary for its own operation; and (ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, that shall include, but not be limited to, the state team's findings and recommendations.

(c) There shall be a local child fatality review team in each district established under section 13 of chapter 12. Notwithstanding section 172 of chapter 6, members of a local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on a local team.

Each local team shall include, but not be limited to: (i) the district attorney of the county, who shall serve as chair; (ii) the chief medical examiner or, designee; (iii) the commissioner of children and families or, designee; (iv) a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team; (v) a local police officer from a municipality where a child fatality or near fatality occurred, appointed by the chief of police of the municipality; (vi) a state law enforcement officer, appointed by the colonel of state police; (vii) the director of the Massachusetts Center for Unexpected Infant and Child Death located at Boston Medical Center or a designee; (viii) at least 1 representative from the department of public health or the office of the child advocate; and (ix) any other person with expertise or information relevant to an individual case who may attend meetings, on an ad hoc basis, by agreement of the permanent members of each local team; provided that such person may include, but shall not be limited to, a local or state law enforcement officer, a hospital representative, a medical specialist or subspecialist, or a designee of the commissioners of developmental services, mental health, youth services, education and early education and care.

The purpose of each local team shall be to decrease the incidence of preventable child fatalities and near fatalities by: (i) coordinating the collection of information on fatalities and near fatalities; (ii) promoting cooperation and coordination between agencies responding to fatalities and near fatalities and in providing services to family members; (iii) developing an understanding of the causes and incidence of child fatalities and near fatalities in the county; and (iv) advising the state team on changes in law, policy or practice that may affect child fatalities and near fatalities.

To achieve its purpose, each local team shall: (i) review, establish and implement model protocols from the state team; (ii) review, subject to the approval of the local district attorney, all

individual fatalities and near fatalities in accordance with the established protocols; (iii) meet periodically, not less than 4 times per calendar year, to review the status of fatality and near fatality cases and recommend methods of improving coordination of services between member agencies; (iv) collect, maintain and provide confidential data as required by the state team; and (v) provide law enforcement or other agencies with information to protect children.

At the request of the local district attorney, the local team shall be immediately provided with: (i) information and records relevant to the cause of the fatality or near fatality maintained by providers of medical or other care, treatment or services, including dental and mental health care; (ii) information and records relevant to the cause of the fatality or near fatality maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney; (iii) information and records of any provider of social services, including the department of children and families, relevant to the child or the child's family, that the local team deems relevant to the review; and (iv) demographic information relevant to the child and the child's immediate family, including, but not limited to, address, age, race, gender and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

(d) Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, chapter 112, chapter 123, section 20B, section 20J or section 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair of the state team or a local team. Any information considered to be confidential pursuant to the

425     aforementioned statutes may be submitted for a team's review upon the determination of that  
426     team's chair that the review of this information is necessary. The chair shall ensure that no  
427     information submitted for a team's review is disseminated to parties outside the team. No  
428     member of a team shall violate the confidentiality provisions set forth in the aforementioned  
429     statutes.

430             Except as necessary to carry out a team's purpose and duties, members of a team and  
431     persons attending a team meeting shall not disclose any information relating to the team's  
432     business.

433             Team meetings shall be closed to the public. Information and records acquired by the  
434     state team or by a local team pursuant to this chapter shall be confidential, exempt from  
435     disclosure under chapter 66 and may only be disclosed as necessary to carry out a team's duties  
436     and purposes.

437             Statistical compilations of data that do not contain any information that would permit the  
438     identification of any person may be disclosed to the public.

439             (e) Members of a team, persons attending a team meeting and persons who present  
440     information to a team shall not be questioned in any civil or criminal proceeding regarding  
441     information presented in or opinions formed as a result of a team meeting.

442             (f) Information, documents and records of the state team or of a local team shall not be  
443     subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding;  
444     provided, however, that information, documents and records otherwise available from any other  
445     source shall not be immune from subpoena, discovery or introduction into evidence through

446 these sources solely because they were presented during proceedings of a team or are maintained  
447 by a team.

448 (g) Nothing in this section shall limit the powers and duties of the child advocate or  
449 district attorneys.

450 SECTION 27. Section 2A of chapter 38 of the General Laws, as so appearing, is hereby  
451 repealed.

452 SECTION 28. Section 3 of said chapter 38, as so appearing, is hereby amended by adding  
453 the following paragraph:-

454 “The office shall immediately send any notification or report of a death under the  
455 circumstances enumerated in clause (15) to the state child fatality review team established by  
456 section 15 of chapter 18C, including, but not limited to, the known facts concerning the time,  
457 place, manner, circumstances and cause of such death. The chief medical examiner shall provide  
458 any additional information related to such notification or report to the state child fatality review  
459 team upon request.”

460 SECTION 29. Subsection (f) of section 23 of chapter 119 of the General Laws, as  
461 appearing in the 2020 Official Edition, is hereby amended by striking out the sixth sentence.

462 SECTION 30. Subsection (h) of said section 23 of said chapter 119, as so appearing, is  
463 hereby further amended by striking out the second paragraph.

464 SECTION 31. Chapter 119 of the General Laws, as so appearing, is hereby amended by  
465 inserting after section 23B the following section:-

466 “Section 23C. (a) The department shall promulgate a policy governing its relationship  
467 with, and responsibilities to, foster parents. This policy shall be collectively known as the foster  
468 parents’ bill of rights and shall be provided by the department and private agencies contracted by  
469 the department to provide foster care to all prospective foster and pre-adoptive parents during the  
470 application process and to kinship foster parents during the placement process. All current foster,  
471 pre-adoptive and kinship parents shall be provided with a copy of the foster parents’ bill of  
472 rights.

473 (b) The foster parents’ bill of rights shall include, but shall not be limited to, the  
474 following:

475 (1) The department shall not discriminate against a foster parent on the basis of religion,  
476 race, ethnicity, color, creed, sex, sexual orientation, gender identity, gender expression, national  
477 origin, age or physical ability.

478 (2) The department shall keep information regarding the foster parent and household  
479 members confidential, except as required by law.

480 (3) The department shall develop and provide a standardized pre-service training for  
481 foster parents, including, but not limited to (i) communication; (ii) positive discipline; (iii) child  
482 guidance; (iv) building the child’s self-esteem; and (v) the reasonable and prudent parent  
483 standard. The department shall update foster parents of any relevant changes in policies and  
484 procedures of the department and any changes in applicable law not less than 30 days before the  
485 changes take place. If the department cannot provide the update not less than 30 days before the  
486 change takes place, the department shall update foster parents as soon as practicable; provided  
487 further, that the reasonable and prudent parenting standard may include a consideration of

relevant factors including, but not limited to: (A) the child's age, maturity and developmental level; (B) the potential risk factors, appropriateness and benefits of allowing the child to participate in an extracurricular, enrichment or social activity; (C) the best interest of the child based on information known to the foster parent; (D) the importance of encouraging the child's emotional and developmental growth; (E) the importance of providing the child with the most family-like experience possible; and (F) the behavioral health of the child and the child's ability to safely participate in a proposed activity.

(4) To the greatest extent possible, as allowable under state and federal law, the department shall, prior to placement, provide a foster parent with information about the child, including, but not limited to: (i) the physical and behavioral health history of the child; (ii) the education needs of the child; and (iii) information about the daily routine of the child. The department shall communicate additional information that becomes known during the time of placement in a timely fashion.

(5) The department shall provide a foster parent with a copy of the department action plan regarding the child in the foster parent's home, other than those parts of the plan containing information that is confidential to a parent under federal or state law and shall afford a foster parent an opportunity to discuss the plan with the social worker. The department shall provide reasonable notification of any changes to that plan.

(6) A foster parent may decline placement of a child in their home. A foster parent may request the removal of a child from their home.

(7) The department shall inform a foster parent of the range and frequency of payments the foster parent may be eligible to receive, including, but not limited to, daily stipends, quarterly



510 clothing allowances and birthday and holiday payments. The department shall notify a foster  
511 parent in writing of any delays in payments as soon as the delay becomes known to the  
512 department.

513 (8) The department shall inform a foster parent of other available financial supports and  
514 services including, but not limited to, parents and children together rates, reimbursements for  
515 one-time costs, childcare and respite. The department shall also provide the criteria for accessing  
516 financial supports and services.

517 (9) The department shall consult with the foster parent in the planning of supervised or  
518 unsupervised visitation.

519 (10) The department shall provide a foster parent no less than 10 days of paid respite care  
520 per year.

521 (11) The department shall maintain a staffed 24-hour emergency hotline in case of  
522 emergency when the department offices are closed. The department shall provide the hotline  
523 number to foster parents.

524 (12) The department shall provide adequate notice to a foster parent of foster care  
525 reviews and appropriate meetings regarding the child in the foster parent's home and shall invite  
526 foster parents to participate in these meetings, except as to those parts of foster care reviews or  
527 meetings that involve information that is confidential as to a parent under federal or state law.

528 (13) The department shall, to the extent reasonably possible, provide adequate notice to a  
529 foster parent when a child is to be removed from their home.

(14) The department shall provide adequate notice to a foster parent of all court hearings, consistent with federal and state law, regarding the child in their home. A foster parent who is unable to attend a court hearing may provide a written statement to the department prior to the hearing.

(15) The department shall provide foster parents with information about: (i) the process and timelines for investigation and resolution of a report made against the foster parent pursuant to section 51A; (ii) the rights of the foster parent to receive and provide information during a review or investigation; and (iii) the potential consequences of a supported complaint, review or investigation.

(16) The department may advocate for a non-kin foster parent to be considered as the first choice as an adoptive parent or legal guardian for a child whose goal has been changed to adoption or guardianship if no kin is available.

(17) Prior to a child leaving a foster home, the department shall provide the opportunity for the foster parent to provide notes that may assist future foster parents in the care or daily routine of the child. The department may include this information in the case file of the child and shall make it accessible, upon request, to future foster or adoptive parents, consistent with applicable state and federal privacy laws.

(18) Upon request of a foster parent, the department shall review department decisions relating to the child while in the care of the foster parent, including, but not limited to, grievance or fair hearing requests filed by the foster parent in compliance with the department's regulations. The department shall provide information on these procedures and timelines to foster parents upon approval as a foster parent.

(19) The department shall not retaliate against foster parents for issuing or filing a complaint with the commissioner, the department's office of the ombudsman or the office of the child advocate or for retaining counsel."

SECTION 32. Subsection (c) of section 26 of said chapter 119, as so appearing, is hereby amended by inserting after the word "custody", in line 90, the following words:- " , the child advocate".

SECTION 33. Section 39½ of said chapter 119, as so appearing, is hereby amended by striking out the eighth paragraph.

SECTION 34. Section 51D of said chapter 119, as so appearing, is hereby amended by striking out the eighth paragraph.

SECTION 35. Section 51E of said chapter 119, as so appearing, is hereby amended by striking out, in line 2, the figure "51D" and inserting place thereof the following figure:- "51C".

SECTION 36. Section 5E of chapter 210 of the General Laws, as appearing in the 2020 Official Edition is hereby repealed.

SECTION 37. Item 4800-0015 of section 2 of chapter 24 of the acts of 2021 is hereby amended by striking out the words "provided further, that on December 1, 2021, and March 1, 2022, 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 2022, using nonidentifying information which shall 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

573 hearing and the hearing officer's decision; (d) the number of days between the hearing officer's  
574 decision and the agency's final decision; (e) the number of days of continuance granted at the  
575 appellant's request; (f) the number of days of continuance granted at the request of the  
576 department of children and families or the hearing officer's request, specifying which party made  
577 the request; and (g) whether the department's decision that was the subject of the appeal was  
578 affirmed or reversed; and (ii) the fair hearing requests filed before fiscal year 2022, which have  
579 been pending for more than 180 days, stating the number of those cases, how many of those  
580 cases have been heard but not decided and how many have been decided by the hearing officer  
581 but not yet issued as a final agency decision; provided further, that the department shall maintain  
582 and make available to the public, during regular business hours, a record of its fair hearings, with  
583 identifying information removed, including for each hearing request: the date of the request, the  
584 date of the hearing decision, the decision rendered by the hearing officer and the final decision  
585 rendered upon the commissioner's review; provided further, that the department shall make  
586 redacted copies of fair hearing decisions available within 30 days of a written request; provided  
587 further, that the department shall not make available any information in violation of federal  
588 privacy regulations; provided further, that not later than March 1, 2022, the department shall  
589 submit a report to the house and senate committees on ways and means and joint committee on  
590 children, families and persons with disabilities that shall include, but not be limited to, the: (1)  
591 number of medical and psychiatric personnel and their level of training currently employed by or  
592 under contract with the department; (2) number of foster care reviews conducted by the  
593 department and the average length of time in which each review is completed; (3) the number of  
594 social workers and supervisors who have earned a bachelor's or master's degree in social work;  
595 (4) the total number of social workers and the total number of social workers holding licensure,

596 by level; (5) number of the department's contracts reviewed by the state auditor and the number  
597 of corrective action plans issued; and (6) number of corrective action plans entered into by the  
598 department; provided further, that on the first business day of each quarter, the department shall  
599 file a report with the house and senate committees on ways and means and the joint committee  
600 on children, families and persons with disabilities on the caseload of the department; provided  
601 further, that the report shall include, but not be limited to: (A) the caseloads of residential  
602 placements, congregate care, foster care, therapeutic foster care, adoption, guardianship, 51A  
603 reports, substantiated 51A reports, the number of children who die in the care and custody of the  
604 department, the number of children currently eligible for supportive child care, the number of  
605 children presently receiving supportive child care and the number of medical and psychiatric  
606 consultation requests made by the department's social workers; (B) the number of approved  
607 foster care placements; (C) the number of children in psychiatric hospitals and community-based  
608 acute treatment programs who remain hospitalized beyond their medically-necessary stay while  
609 awaiting placement and the number of days each case remains in placement beyond that which is  
610 medically necessary; (D) the number of children under the department of children and families'  
611 care and custody who are being served in medical or psychiatric care provided through other  
612 publicly-funded sources; (E) the number of children served by supervised visitation centers and  
613 the number of those children who are reunified with their families; (F) the total number of  
614 children served, their ages, the number of children served in each service plan, the number of  
615 children in out-of-home placements and the number of placements each child has had before  
616 receiving an out-of-home placement; (G) for each area office, the number of kinship  
617 guardianship subsidies provided in the quarters covered by the report and the number of kinship  
618 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 at 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 January 31, 2022, 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 said 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

642 used to determine whether a child has been abused or neglected; (II) guidelines for removal of a  
643 child from the home; and (III) standards to determine what reasonable efforts are being made to  
644 keep a child in the home; provided further, that on a monthly basis, the department shall provide  
645 the caseload forecasting office with data on children receiving services and other pertinent data  
646 related to items 4800-0038 and 4800-0041 that is requested by the office; provided further, that  
647 the report shall also contain the number of children and families served by the family resource  
648 centers, by area, and an evaluation of the services provided and their effectiveness.”

649         SECTION 38. Notwithstanding any general or special law to the contrary, the department  
650 of children and families shall file a report detailing its compliance with its agreement with the  
651 United States Department of Justice and the United States Department of Health and Human  
652 Services to resolve their findings that the department of children and families discriminated by  
653 reason of disability in violation of Title II of the Americans with Disabilities Act, 42 U.S.C. §§  
654 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, and Section 504 of the  
655 Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and its implementing regulation, 45  
656 C.F.R. Part 84 upon the termination of the agreement, with the clerks of the house of  
657 representatives and the senate; the joint committee on the judiciary and the joint committee on  
658 children, families and persons with disabilities.