

SENATE No. 2953

The Commonwealth of Massachusetts

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

SENATE, June 27, 2022.

The committee on Senate Ways and Means to whom was referred the petition (accompanied by bill, Senate, No. 32) of Joan B. Lovely, Kay Khan, Susan L. Moran, Vanna Howard and others for legislation relative to accountability for vulnerable children and families,-
- reports the accompanying bill (Senate, No. 2953)

For the committee,
Michael J. Rodrigues

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An Act relative to accountability for vulnerable children and families.

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. Section 16P of chapter 6A of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out, in lines 23 and 24, the words “the data
3 reported by the department of children and families under section 23 of chapter 18B and.

4 SECTION 2. Section 6A of chapter 18B of the General Laws, as so appearing, is hereby
5 amended by striking out the last paragraph.

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

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

10 SECTION 5. Section 23 of said chapter 18B, as added by section 45 of chapter 176 of the
11 acts of 2008, is hereby repealed.

12 SECTION 6. Section 23 of said chapter 18B, as added by section 8 of chapter 321 of the
13 acts of 2008, is hereby amended by striking out the last sentence.

14 SECTION 7. Said chapter 18B is hereby amended by striking out sections 24 and 25 and
15 inserting in place thereof the following 4 sections:-

16 Section 24. (a)(1) Annually, not later than October 31, the department shall issue a report
17 that provides an overview of the department's performance during the previous fiscal year. The
18 report shall be filed with the governor, the child advocate, the clerks of the senate and house of
19 representatives, the senate and house committees on ways and means and the joint committee on
20 children, families and persons with disabilities. The commissioner shall provide the recipients of
21 the report with an opportunity to discuss its contents with the commissioner or a designee. The
22 report shall be made publicly available on the department's website.

23 (2) The report shall include, but not be limited to, narratives, information, data and
24 analysis on: (i) counts, disaggregated, to the extent feasible, by race and ethnicity, gender, gender
25 identity, sexual orientation, disability and primary language, including, but not limited to: (A)
26 case counts; (B) consumer counts; (C) rates of disproportionality; (D) placement metrics; (E) the
27 number of infants brought into the department's care pursuant to section 39½ of chapter 119; (F)
28 the number of siblings in placement; (G) the number of children in the care and custody of the
29 department who are designated missing and absent; (H) the number of children and youth who
30 died while in the care and custody of the department; (I) the number of reports filed pursuant to
31 section 51A of said chapter 119; (J) the number of protective responses pursuant to section 51B
32 of said chapter 119; and (K) the number of reports filed against each alleged perpetrator type
33 pursuant to said section 51A of said chapter 119; (ii) safety processes and outcomes,

34 disaggregated, to the extent feasible, by race and ethnicity, gender, gender identity, sexual
35 orientation, disability and primary language, including, but not limited to: (A) safety outcomes;
36 (B) congregate care placement of children in the department's care, including, but not limited to,
37 the number of children in each type of congregate care setting; (C) permanency processes and
38 outcomes, including, but not limited to, rates of: (1) reunification; (2) adoption; and (3) kinship
39 guardianship; (D) educational outcomes, including, but not limited to: (1) school placement
40 information; (2) the average range of the number of school placement changes during the
41 previous year; (3) the number of Individualized Education Plans; (4) attendance rates; (5) high
42 school graduation rates; and (6) school disciplinary actions; and (E) well-being outcomes,
43 including, but not limited to, the rates and timeliness of the delivery of medical and behavioral
44 health services; (iii) operations, including, but not limited to: (A) staffing trends; (B) caseloads;
45 (C) the department's budget, including, but not limited to, funding levels; (D) service costs; (E)
46 medical services and advancements in providing medical services to children and young adults in
47 the department's care; (F) the number of subsidy payments and amounts expended for foster
48 care, adoptive families and guardianship families to provide assistance, including financial
49 assistance, for the care of children and the number of foster care, adoptive care and kinship
50 guardianship subsidies for which federal reimbursement was received; (G) the foster care review
51 system and any recommendations for its improvement; (H) services and accommodations
52 available to caregivers and children who are individuals with disabilities; (I) the number of
53 disability requests made to the department and the number of disability requests granted by the
54 department; (J) the number of disability-related complaints filed with the department by or on
55 behalf of parents with disabilities; (K) complaints filed with the department's ombudsman,
56 including, but not limited to, a summary of the complaints filed, broken down by type of

57 complaint and the area offices involved with the complaint and the case; (L) any new or ongoing
58 initiatives to improve practices, procedures or policy of the department; and (M) the
59 implementation and execution of support and stabilization programs and the federal Family First
60 Prevention Services Act; and (iv) a measurement of the department's progress towards meeting
61 the targets established in the 5-year plan pursuant to subsection (e). The report shall also include
62 comparative departmental information from prior fiscal years

63 (3) Following the release of the department's annual report, the child advocate shall
64 solicit input from members of the public, advocates and diverse stakeholders from across the
65 commonwealth for a period of 60 days. Additional public comment periods may be opened
66 following the initial 60-day period in the same calendar year if determined necessary by the
67 department or the child advocate. Following the completion of the initial 60-day comment period
68 or any subsequent comment period, the child advocate shall analyze the public comment
69 received and report on their findings, including, but not limited to, any disparate impact in
70 services based on geographic differences and any other relevant factors. The report shall be filed
71 with the governor, the clerks of the senate and house of representatives, the senate and house
72 committees on ways and means and the joint committee on children, families and persons with
73 disabilities. The report shall be made publicly available on the department's website

74 (b)(1) Not more than 60 days after the end of each fiscal quarter, the department shall
75 report on departmental, regional office and area office data. The report shall include, but not be
76 limited to, data, disaggregated, to the extent feasible, by race and ethnicity, gender, gender
77 identity, sexual orientation, disability and primary language, on: (i) consumer counts; (ii) the
78 number of reports filed pursuant to section 51A of chapter 119, including counts of reports
79 received, screened-in and screened-out in the quarter; (iii) department case counts, including

80 counts of clinical and adoption cases in the quarter; (iv) counts of children and youth in
81 placement; and (v) counts of children and youth not in placement. The report shall be posted
82 publicly on the department's website.

83 (2) The department shall notify the senate and house committees on ways and means and
84 the joint committee on children, families and persons with disabilities when data from a report
85 issued pursuant to paragraph (1) significantly departs from trends reported previously.

86 (c) If the department is unable to submit the report under subsection (a), the report under
87 subsection (b) or any other statutorily-mandated reports by the respective deadline, the
88 department shall, in writing, notify the governor, the child advocate, the clerks of the senate and
89 house of representatives, the senate and house committees on ways and means and the joint
90 committee on children, families and persons with disabilities and provide an explanation for the
91 delay.

92 (d) The department shall notify the joint committee on children, families and persons
93 with disabilities when draft regulations are made available by the department for public
94 comment. Not more than 30 days after the promulgation of regulations or the effective date of
95 adopted or revised departmental policies relative to services provided to children and families,
96 the department shall provide copies of the regulations or departmental policies to the joint
97 committee on children, families and persons with disabilities.

98 (e) The department, in consultation with other governmental and nongovernmental
99 partners, shall establish a 5-year plan that shall include numerical targets for the department's
100 performance in each year and in each of its regions in the areas of safety, permanence and well-
101 being of children receiving services from or in custody of the department. The plan shall include

102 a description of how the department will measure its progress toward meeting the numerical
103 targets and may include different targets for different regions. Annually, not later than March 31,
104 the department shall update and submit the plan to the joint committee on children, families and
105 persons with disabilities.

106 The department shall publish and prominently maintain on its website the current plan,
107 the targets for previous years and the department's performance in meeting those targets.

108 (f) (1) If the governor declares a state of emergency in the commonwealth, the
109 department shall report on data relevant to the state of emergency's impact on the department's
110 operations, programs and consumers. The department shall file each report with the senate and
111 house committees on ways and means and the joint committee on children, families and persons
112 with disabilities not less than once every month from the declaration of the state of emergency to
113 60 days after the termination of the state of emergency. The report shall be made publicly
114 available on the department's website.

115 (2) The report shall include, but not be limited to: (i) demographic information on
116 consumers impacted by the state of emergency; (ii) the number of reports and substantiated
117 reports made that month to the department pursuant to section 51A of chapter 119 and
118 comparative data on the number of reports made to the department for the same time period in
119 prior years before the declaration of the state of emergency; (iii) the number of reports and
120 substantiated reports that were filed by mandated reporters, including, but not limited to, the
121 number of reports filed by each category of mandated reporter and the number of intake and
122 home removal episodes as a result of the reports; and (iv) the number of case closures and exits
123 from care.

124 (3) The department may conduct surveys of consumers in order to collect non-identifiable
125 and identifiable data during the state of emergency and after its conclusion. Identifiable survey
126 data may be collected in order to adequately provide for the needs of its consumers, including,
127 but not limited to, questions regarding food insecurity, housing insecurity, educational needs,
128 technology needs and internet and phone service capacity and other relevant needs.

129 Section 25. Annually, not later than October 31, the department shall report on services
130 provided to young adults over the age of 18. The report shall include, but not be limited to: (i) a
131 summary of the process by which a young adult may continue to receive services from the
132 department upon reaching the age of 18; (ii) the types of services provided to young adults; (iii)
133 the number of young adults who have elected to sustain a connection with the department in the
134 previous fiscal year; (iv) to the extent feasible, the number of young adults who have elected not
135 to remain with the department and have transitioned out of the child welfare system in the
136 previous fiscal year, including young adults who had previously elected to sustain a connection
137 with the department; (v) the number of young adults who elected to return to the department in
138 the previous fiscal year after transitioning out of the child welfare system; (vi) the number of
139 young adults who sought to sustain a connection with the department in the previous fiscal year
140 but were denied by the department; (vii) the types of services provided to young adults and the
141 number of young adults receiving each type of service; (viii) the number of youth reunified with
142 their families at age 17 or older; (ix) the number of all young adults over the age of 18 who
143 transitioned out of the child welfare system without permanent homes in the previous fiscal year,
144 including the number of young adults with: (A) employment; (B) plans to attend post-secondary
145 education; and (C) secure housing; (x) the reasons for young adults exiting care from ages 18 to
146 23 in the previous fiscal year; and (xi) the number of young adults over 18 who receive funds

147 directly from the department. Where feasible, reported information shall be disaggregated by
148 race and ethnicity, gender, gender identity, sexual orientation, disability and primary language.
149 The report shall be submitted to the child advocate, the clerks of the senate and house of
150 representatives, the house and senate committees on ways and means and the joint committee on
151 children, families and persons with disabilities. The department may satisfy the reporting
152 requirements of this section by providing the requested information in an annual report filed
153 under section 26.

154 Section 26. (a) Annually, not later than October 31, the department shall report on its fair
155 hearing process and cases. The report shall include, but not be limited to: (i) information on the
156 fair hearing requests open at any time during the previous fiscal year; and (ii) for each hearing
157 request: (A) the subject matter of the appeal; (B) the outcome if resolved prior to a fair hearing
158 decision; (C) the number of days between the hearing request and the first day of the hearing;
159 (D) the number of days between the close of the evidence and the hearing officer's decision; (E)
160 the number of days of continuance granted at the appellant's request; (F) the number of days of
161 continuance granted at the request of the department or the hearing officer, specifying which
162 party made the request; and (G) whether the department's decision that was the subject of the
163 appeal was affirmed or reversed; provided, however, that the information shall be in a form that
164 shall not include personally-identifiable information. The report shall be submitted to the child
165 advocate, the clerks of the senate and house of representatives, the senate and house committees
166 on ways and means and the joint committee on children, families and persons with disabilities.
167 The report shall be made publicly available on the department's website.

168 (b) The department shall maintain and make available to the public during regular
169 business hours a record of its fair hearings that shall include, but not be limited to, for each

170 hearing request: (i) the date of the request; (ii) the date of the hearing decision; (iii) the decision
171 rendered by the hearing officer; (iv) the final decision rendered upon the commissioner's review;
172 and (v) the number of fair hearing requests that have been pending for more than 180 days at any
173 time during the fiscal year and how many have been heard but not decided, except for the fair
174 hearings that have been stayed at the request of the district attorney; provided, however, that the
175 information shall be in a form that shall not include personally-identifiable information. For fair
176 hearing requests that are pending for more than 180 days at any time during the fiscal year,
177 except for requests that have been stayed at the request of the district attorney, the report shall
178 provide the number of such cases, how many have been heard but not decided and how many
179 have been decided by the hearing officer but not yet issued a final agency decision.

180 If there are more than 225 fair hearing requests open for more than 180 days at the end
181 of any month during the first 6 months of a fiscal year, then an additional report of such requests
182 shall be provided to entities required to receive the report pursuant to subsection (a) not later than
183 April 30. The department shall make redacted copies of fair hearing decisions available not later
184 than 30 days after a written request.

185 Section 27. Notwithstanding any general or special law to the contrary, any social service
186 program, as defined by section 22N of chapter 7, or any program or service that is reimbursable
187 under Title XIX of the federal Social Security Act that is providing services to a child who is in
188 the custody of or receiving services from the department or is providing services to a young adult
189 or adult receiving services from the department shall provide the department with information
190 not more than 5 business days after receiving a request for information from a department social
191 worker for the purposes of conducting a collateral check; provided, however, that programs or
192 services shall comply with all applicable state and federal privacy requirements, including those

193 imposed by the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104–
194 191, the federal American Recovery and Reinvestment Act of 2009, P.L. 111–5, 42 C.F.R. 2.11
195 et seq. and 45 C.F.R. 160, 162 and 164.

196 SECTION 8. Section 5 of chapter 18C of the General Laws, as appearing in the 2020
197 Official Edition, is hereby amended by adding the following subsection:-

198 (i) The child advocate shall make any multi-system investigation publicly available and
199 shall provide notice to the governor, the attorney general, the speaker of the house of
200 representatives and the senate president prior to making the multi-system investigation publicly
201 available. The office shall report to the governor, the attorney general, the speaker of the house
202 of representative and the senate president if, after making a multi-system investigation, the office
203 has a reasonable belief that an act or omission of an executive agency or contracted provider
204 contributed to the harm suffered by the child.

205 SECTION 9. Section 15A of chapter 75 of the General Laws, as so appearing, is hereby
206 amended by striking out the third paragraph and inserting in place thereof the following
207 paragraph:-

208 The center shall maintain the confidentiality of any individual whose personal
209 information is made available to the center pursuant to section 7 of chapter 15D, but compliance
210 with individual confidentiality as required by this section shall not prevent the publication of
211 aggregated research information or case studies in which personal identifiers have been removed.

212 SECTION 10. Subsection (f) of section 23 of chapter 119 of the General Laws, as so
213 appearing, is hereby amended by striking out the last sentence.

214 SECTION 11. Subsection (h) of said section 23 of said chapter 119, as so appearing, is
215 hereby amended by striking out the second paragraph.

216 SECTION 12. Said section 23 of said chapter 119, as so appearing, is hereby further
217 amended by adding the following subsection:-

218 (j) The commissioner shall establish and periodically update an internal review policy to
219 require a review prior to a determination to remove a child from their parent or caretaker, reunify
220 a child with their parent or caretaker or terminate parental rights. Members of the review shall
221 include, but not be limited to: (i) the social worker with direct case responsibility for the child or
222 young adult whose case is being reviewed; (ii) the immediate supervisor of the social worker;
223 (iii) counsel from the area office; (iv) the area director; (v) the area clinical manager; and (vi)
224 any relevant specialist as determined by the commissioner. The review shall include, but not be
225 limited to, the child's foster care review results and recommendations and information from
226 collateral contacts consistent with the ongoing casework and documentation policy. The outcome
227 of the review and all accompanying notes and files shall be included in the case records of the
228 child.

229 SECTION 13. Section 29 of said chapter 119, as so appearing, is hereby amended by
230 inserting after the second paragraph the following 2 paragraphs:-

231 The department shall provide notice of a change in placement or hospitalization to a child
232 or young adult's attorney not less than 5 business days before any non-emergency change in the
233 child or young adult's placement or any non-emergency hospitalization and not more than 1
234 business day after any emergency change in the child or young adult's placement or any
235 emergency hospitalization.

236 If the department receives a report pursuant to section 51A, the department shall notify
237 the attorney of the child or young adult involved in the reported incident not more than 1
238 business day after the department’s screening decision has been made.

239 SECTION 14. Section 39½ of said chapter 119, as so appearing, is hereby amended by
240 striking out the last paragraph.

241 SECTION 15. Section 51D of said chapter 119, as so appearing, is hereby amended by
242 striking out the last paragraph.

243 SECTION 16. Section 51E of said chapter 119, as so appearing, is hereby amended by
244 striking out, in line 2, the figure “51D” and inserting place thereof the following figure:- 51C.

245 SECTION 17. Section 5E of chapter 210 of the General Laws is hereby repealed.

246 SECTION 18. The department of children and families, in consultation with the office of
247 the child advocate, shall identify potential modifications to specific policies, procedures, rules or
248 protocols to improve the process of transferring cases involving multiple social workers or area
249 offices and ensure the efficient and accurate transfer of case information and care for the child.
250 The department shall determine whether new policies or regulations are needed to improve the
251 process of transferring cases between social workers or between area offices.

252 Not later than April 31, 2023, the department shall submit a report to the clerks of the
253 senate and house of representatives, the senate and house committees on ways and means and the
254 joint committee on children, families and persons with disabilities that shall include, but not be
255 limited to: (i) the department’s findings of the review, including, but not limited to, an evaluation
256 of how policies are implemented in each area office and barriers to transferring information and

257 cases between social workers or area offices; (ii) the number of cases transferred between area
258 offices in fiscal year 2022; (iii) the number of cases transferred between social workers within
259 the same area office in fiscal year 2022; (iv) any actions the department has taken, or plans to
260 take, to address barriers to transferring information and cases between social workers and area
261 offices, including, but not limited to, changes to policies and regulations; and (v) proposed
262 legislation that may improve stability for children whose cases involve multiple social workers
263 or area offices, if applicable.

264 SECTION 19. The board of registration of social workers shall report on the barriers
265 prospective social workers who took the licensure examination in 2019, 2020 or 2021 face
266 entering the profession as a social worker, as defined in section 130 of chapter 112 of the
267 General Laws, due to the licensure examination. The report shall include, but not be limited to:
268 (i) the total number of individuals, broken down by each licensure type; (ii) aggregate data on the
269 age, race, ethnicity and primary language of such individuals; (iii) the total number of such
270 individuals who reported a learning disability or other disability; and (iv) in a de-identified form,
271 the number of such individuals who, in 2019, 2020 or 2021, were taking the examination for the
272 first, second, third, fourth or more time, broken down by licensure type. The report shall include
273 a description of the accommodations offered for individuals with disabilities and individuals
274 whose primary language is a language other than English.

275 Not later than April 31, 2023, the board shall submit the report to the senate and house
276 committees on ways and means and the joint committee on children, families and persons with
277 disabilities, including any recommendations on how to eliminate any cultural and implicit bias
278 related to entry into the profession as a social worker, including as it relates to the licensure
279 examination.

280 SECTION 20. The initial 5-year plan required in subsection (e) of section 26 of chapter
281 18B of the General Laws shall be submitted to the joint committee on children, families and
282 persons with disabilities not later than March 31, 2023.