

SENATE No. 2984

Senate, June 30, 2022 -- Text of the Senate Bill relative to accountability for vulnerable children and families (being the text of Senate, No. 2953, printed as amended)

The Commonwealth of Massachusetts

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

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
3 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 last sentence.

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11 acts of 2008, is hereby repealed.

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

SECTION 7. Said chapter 18B is hereby further amended by striking out sections 24 and 25, as so appearing, and inserting in place thereof the following 4 sections:-

Section 24. (a)(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 report shall be filed with the governor, the child advocate, the clerks of the senate and house of representatives, the senate and house 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 the commissioner's designee. The report shall be made publicly available on the department's website.

(2) The report shall include, but not be limited to, narratives, information, data and analysis on: (i) counts, disaggregated by race and ethnicity, gender, gender identity, sexual orientation, disability and primary language, including, but not limited to: (A) case counts; (B) consumer counts; (C) rates of disproportionality; (D) placement metrics; (E) the number of infants brought into the department's care pursuant to section 39½ of chapter 119; (F) the rate at which sibling groups are placed together; (G) the number of children in the care and custody of the department who are designated missing and absent; (H) the number and cause of death of children and youth who died while in the care and custody of the department; (I) the number of reports filed pursuant to section 51A of said chapter 119; (J) the number of protective responses pursuant to section 51B of said chapter 119; and (K) the number of reports filed against each

alleged perpetrator type pursuant to said section 51A of said chapter 119; (ii) safety processes and outcomes, disaggregated by race and ethnicity, birth sex, gender identity, sexual orientation, disability and primary language including, but not limited to: (A) safety outcomes; (B) congregate care placement of children in the custody of the department including, but not limited to: (I) the number of children in each type of congregate care setting; (II) the duration of the placement for each child; (III) services provided to children while in placement and the number of children receiving each type of service; (IV) services provided to families to promote reunification while the child was in placement and the number of families receiving each type of service; and (V) the number of reports filed pursuant to said section 51A of said chapter 119 in the preceding fiscal year alleging abuse or neglect of a child occurring during the child's congregate placement; (C) permanency processes and outcomes including, but not limited to, rates of: (I) reunification; (II) adoption; and (III) kinship guardianship; (D) educational outcomes including, but not limited to: (I) school placement information; (II) the average range of the number of school placement changes during the previous year; (III) the number of Individualized Education Plans; (IV) attendance rates; (V) high school graduation rates; and (VI) school disciplinary actions; and (E) well-being outcomes including, but not limited to, the rates and timeliness of the delivery of medical and behavioral health services; (iii) operations including, but not limited to: (A) staffing trends; (B) caseloads; (C) the department's budget including, but not limited to, funding levels; (D) service costs; (E) medical services and advancements in providing medical services to children and young adults in the department's care; (F) the number of subsidy payments and amounts expended for foster care, adoptive families and guardianship families to provide assistance, including financial assistance, for the care of children and the number of foster care, adoptive care and kinship guardianship subsidies for which federal

reimbursement was received; (G) the foster care review system and any recommendations for its improvement; (H) services and accommodations available to caregivers and children who are individuals with disabilities; (I) the number of disability requests made to the department and the number of disability requests granted by the department; (J) the number of disability-related complaints filed with the department by or on behalf of parents with disabilities; (K) complaints filed with the department's ombudsman including, but not limited to, a summary of the complaints filed, broken down by type of complaint and the area offices involved with the complaint and the case; (L) any new or ongoing initiatives to improve practices, procedures or policy of the department; and (M) the implementation and execution of support and stabilization programs and the federal Family First Prevention Services Act; and (iv) a measurement of the department's progress towards meeting the targets established in the 5-year plan pursuant to subsection (e). The report shall also include comparative departmental information from prior fiscal years

(3) Following the release of the department's annual report, the child advocate shall solicit input from members of the public, advocates and diverse stakeholders from across the commonwealth for a period of 60 days. Additional public comment periods may be opened following the initial 60-day period in the same calendar year if determined necessary by the department or the child advocate. Following the completion of the initial 60-day comment period or any subsequent comment period, the child advocate shall analyze the public comment received and report on their findings, including, but not limited to, any disparate impact in services based on geographic differences and any other relevant factors. The report shall be filed with the governor, the clerks of the senate and house of representatives, the senate and house

committees on ways and means and the joint committee on children, families and persons with disabilities. The report shall be made publicly available on the department's website

(b)(1) Not more than 60 days after the end of each fiscal quarter, the department shall report on departmental, regional office and area office data. The report shall include, but not be limited to, data, disaggregated by race and ethnicity, birth sex, gender identity, sexual orientation, disability and primary language, on: (i) consumer counts; (ii) the number of reports filed pursuant to section 51A of chapter 119, including counts of reports received, screened-in and screened-out in the quarter; (iii) department case counts, including counts of clinical and adoption cases in the quarter; (iv) counts of children and youth in placement; and (v) counts of children and youth not in placement. The report shall be posted publicly on the department's website.

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

(c) If the department is unable to submit the report under subsection (a), the report under subsection (b) or any other statutorily-mandated reports by the respective deadline, the department shall, in writing, notify the governor, the child advocate, the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities and provide an explanation for the delay. If the department determines that the inclusion of any data required in a statutorily-mandated report is not feasible, the department shall identify the reasoning and any needed changes or upgrades to current data collection processes to facilitate the reporting of such data.

(d) The department 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) The department, in consultation with 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 of children receiving services from or in custody of the department. 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 and any information technology needs necessary to comply with the goals of the 5-year plan. Annually, not later than December 1, the department shall update and submit the plan to the joint committee on children, families and persons with disabilities.

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

(f)(1) If the governor declares a state of emergency and the state of emergency remains in place for at least 30 days, the department shall report on data relevant to the state of emergency's impact on the department's operations, programs and consumers. The department shall file each report with the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities not less than once every month from the

123 declaration of the state of emergency to 60 days after the termination of the state of emergency.
124 The report shall be made publicly available on the department's website.

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

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

140 Section 25. Annually, not later than October 31, the department shall report on services
141 provided to young adults over the age of 18. The report shall include, but not be limited to: (i) a
142 summary of the process by which a young adult may continue to receive services from the
143 department upon reaching the age of 18; (ii) the types of services provided to young adults; (iii)
144 the number of young adults who have elected to sustain a connection with the department in the

previous fiscal year; (iv) 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; (v) the number of young adults who elected to return to the department in the previous fiscal year after transitioning out of the child welfare system; (vi) the number of young adults who sought to sustain a connection with the department in the previous fiscal year but were denied by the department; (vii) the types of services provided to young adults and the number of young adults receiving each type of service; (viii) the number of youth reunified with their families at age 17 or older; (ix) the number of all young adults over the age of 18 who transitioned out of the child welfare system without permanent homes in the previous fiscal year, including the number of young adults with: (A) employment; (B) plans to attend post-secondary education; and (C) secure housing; (x) the reasons for young adults exiting care from ages 18 to 23 in the previous fiscal year; and (xi) the number of young adults over 18 who receive funds directly from the department. Reported information shall be disaggregated by race and ethnicity, birth sex, gender identity, sexual orientation, disability and primary language. The report shall be submitted 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 department may satisfy the reporting requirements of this section by providing the requested information in an annual report filed under section 26.

Section 26. (a) Annually, not later than October 31, the department shall report on its fair hearing process and cases. The report shall include, but not be limited to: (i) information on the fair hearing requests open at any time during the previous fiscal year; and (ii) for each hearing request: (A) the subject matter of the appeal; (B) the outcome if resolved prior to a fair hearing

168 decision; (C) the number of days between the hearing request and the first day of the hearing;
169 (D) the number of days between the close of the evidence and the hearing officer's decision; (E)
170 the number of days of continuance granted at the appellant's request; (F) the number of days of
171 continuance granted at the request of the department or the hearing officer, specifying which
172 party made the request; and (G) whether the department's decision that was the subject of the
173 appeal was affirmed or reversed; provided, however, that the information shall be in a form that
174 shall not include personally-identifiable information. For fair hearing requests that are pending
175 for more than 180 days at any time during the fiscal year, except for requests that have been
176 stayed at the request of the district attorney, the report shall provide the number of such cases,
177 how many have been heard but not decided and how many have been decided by the hearing
178 officer but not yet issued a final agency decision. The report shall be submitted to the child
179 advocate, the clerks of the senate and house of representatives, the senate and house committees
180 on ways and means and the joint committee on children, families and persons with disabilities.
181 The report shall be made publicly available on the department's website.

182 (b) The department shall maintain and make available to the public during regular
183 business hours a record of its fair hearings that shall include, but not be limited to, for each
184 hearing request: (i) the date of the request; (ii) the date of the hearing decision; (iii) the decision
185 rendered by the hearing officer; (iv) the final decision rendered upon the commissioner's review;
186 and (v) the number of fair hearing requests that have been pending for more than 180 days at any
187 time during the fiscal year and how many have been heard but not decided, except for the fair
188 hearings that have been stayed at the request of the district attorney; provided, however, that the
189 information shall be in a form that shall not include personally-identifiable information.

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

195 Section 27. Notwithstanding any general or special law to the contrary, any social service
196 program, as defined by section 22N of chapter 7, or any program or service that is reimbursable
197 under Title XIX of the Social Security Act that is providing services to a child who is in the
198 custody of or receiving services from the department or is providing services to a young adult or
199 adult receiving services from the department shall provide the department with information not
200 more than 5 business days after receiving a request for information from a department social
201 worker for the purposes of conducting a collateral check. Any such programs or services shall
202 comply with all applicable state and federal privacy requirements, including those imposed by
203 the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104–191, the
204 American Recovery and Reinvestment Act of 2009, P.L. 111–5, 42 C.F.R. 2.11 et seq. and 45
205 C.F.R. 160, 162 and 164.

206 SECTION 8. Section 5 of chapter 18C of the General Laws, as so appearing, is hereby
207 amended by adding the following subsection:-

208 (i) The child advocate shall make any multi-system investigation publicly available and
209 shall provide notice to the governor, the attorney general, the speaker of the house of
210 representatives and the senate president prior to making the multi-system investigation publicly
211 available. The office shall report to the governor, the attorney general, the speaker of the house

of representative and the senate president if, after making a multi-system investigation, the office has a reasonable belief that an act or omission of an executive agency or contracted provider contributed to the harm suffered by the child.

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

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

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

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

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

(j) The commissioner shall establish and periodically update an internal review policy to require a review prior to a determination to remove a child from their parent or caretaker, reunify a child with their parent or caretaker or terminate parental rights. Members of the review team shall include, but not be limited to: (i) the social worker with direct case responsibility for the child or young adult whose case is being reviewed; (ii) the immediate supervisor of the social

worker; (iii) counsel from the area office; (iv) the area director; (v) the area clinical manager; and (vi) any relevant specialist as determined by the commissioner. The review shall include, but not be limited to, the child's foster care review results and recommendations and information from collateral contacts consistent with the ongoing casework and documentation policy. The outcome of the review and all accompanying notes and files shall be included in the case records of the child.

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

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

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

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

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

SECTION 16. 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 17. Section 5E of chapter 210 of the General Laws is hereby repealed.

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

Not later than April 31, 2023, the department shall submit a report to the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities that shall include, but not be limited to: (i) the department’s findings of the review, including, but not limited to, an evaluation of how policies are implemented in each area office and barriers to transferring information and cases between social workers or area offices; (ii) the number of cases transferred between area offices in fiscal year 2022; (iii) the number of cases transferred between social workers within the same area office in fiscal year 2022; (iv) any actions the department has taken, or plans to take, to address barriers to transferring information and cases between social workers and area offices, including, but not limited to, changes to policies and regulations; and (v) proposed legislation that may improve stability for children whose cases involve multiple social workers or area offices, if applicable.

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

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

SECTION 20. The initial 5-year plan required in subsection (e) of section 26 of chapter 18B of the General Laws shall be submitted to the joint committee on children, families and persons with disabilities not later than December 1, 2024.