

SENATE No. 71

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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

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

An Act minimizing trauma to children and families.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

Norfolk and Middlesex

SENATE No. 71

By Ms. Creem, a petition (accompanied by bill, Senate, No. 71) of Cynthia Stone Creem for legislation to minimize trauma to children and families. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act minimizing trauma to 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. Chapter 18B of the General Laws is hereby amended by inserting after
2 section 25 the following section:-

3 Section 26. The department shall report each quarter on the number of cases in which it
4 took custody of a child under section 51B of chapter 119 without first obtaining a court order
5 under section 24 or 24A of chapter 119, the total number of children over whom it assumed
6 custody in those cases, the median amount of time between the department taking custody and its
7 employees requesting court approval of that decision, and the number of cases in which it took
8 more than four hours to request court approval. Data in the report shall be broken down by area
9 office. The report shall be made publicly available on the department’s website consistent with
10 section 19 of chapter 66.

11 SECTION 2. Chapter 119 of the General Laws is hereby amended by inserting after
12 section 24 the following section:-

13 Section 24A. When the juvenile court is closed for business, any justice acting under
14 section 9(vi)(B) of chapter 211B may grant relief authorized under the third paragraph of section
15 24. Such relief may be granted and communicated by telephone to an agent of the department,
16 who shall record such order on a form of order promulgated for such use by the chief justice of
17 the trial court and who shall deliver a copy of such order on the next court day to the clerk-
18 magistrate of the juvenile court having venue and jurisdiction over the matter. If relief has been
19 granted without the filing of a written petition with the clerk under section 24, the department
20 shall appear in court when the court is next open for business to file a written petition under
21 section 24. The matter shall then proceed under section 24.

22 Any order issued under this section and any documentation in support thereof shall be
23 certified at the latest on the next business day by the clerk-magistrate or register of the court
24 issuing such order to the court having venue and jurisdiction over the matter.

25 The trial court shall promulgate rules specifying the procedures applicable to matters
26 initiated under this section. All such proceedings shall be recorded.

27 SECTION 3. Section 51B of Chapter 119 of the General Laws is hereby amended by
28 striking out the first sentence of subsection (c) and inserting in place thereof the following
29 sentences:-

30 If the department has reasonable cause to believe that (i) a child is suffering from serious
31 abuse or neglect or is in immediate danger of serious abuse or neglect; and (ii) immediate
32 removal without first obtaining a court order under section 24 or 24A is necessary to protect the
33 child from serious and imminent physical harm, it shall take the child into its immediate
34 temporary custody. If the department takes the child into its temporary custody under this

35 subsection, it shall, within four hours, obtain judicial approval of such action from the juvenile
36 court or, if the juvenile court is closed for business, any justice acting under section 9(vi)(B) of
37 chapter 211B. To obtain such approval, the department employees who made the reasonable
38 cause determination shall provide the court a sworn affidavit stating the basis of that
39 determination or, if providing information to the court by telephone, shall do so under oath and
40 shall provide the court with a sworn affidavit when the court is next open for business. The
41 matter shall then proceed as set forth in sections 24 or 24A of this chapter.

42 SECTION 4. Section 51B of Chapter 119 of the General Laws is hereby amended by
43 striking out subsection (e).