

SENATE No. 124

The Commonwealth of Massachusetts

PRESENTED BY:

Jacob R. Oliveira

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 enhancing child welfare protections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	
<i>Michael J. Finn</i>	<i>6th Hampden</i>	
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>2/2/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/13/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/16/2023</i>

SENATE No. 124

By Mr. Oliveira, a petition (accompanied by bill, Senate, No. 124) of Jacob R. Oliveira, Michael J. Finn, Lydia Edwards, Patrick M. O'Connor and others for legislation to enhance child welfare protections. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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

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2 Laws, as appearing in the 2020 Official Edition, is hereby repealed.

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

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

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

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

12 The education manager’s duties shall include, but shall not be limited to: (i) developing,
13 implementing and overseeing the department’s policies on education for children under the care
14 and custody of the department, including policy development and practice guidance; (ii)
15 monitoring state and federal laws, programs and resources that may impact the education of
16 children under the care and custody of the department; (iii) advising the commissioner and all
17 education coordinators on all matters relating to education, strategic education initiatives, policy,
18 and practice management matters; (iv) coordinating efforts with area office based education
19 coordinators to identify systemic barriers to accessing educational services for children under the
20 care and custody of the department; (v) coordinating with department area and regional offices
21 on education related issues; and (vi) facilitating best practice training for area office-based
22 education coordinators.

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

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

29 Each education coordinator’s duties shall include, but shall not be limited to: (i)
30 implementing and overseeing the area office’s work on education for children receiving services
31 from the department, consistent with the policies created by the department’s education manager;
32 (ii) monitoring student academic progress of children under the care and custody of the area
33 office not less than once per academic quarter; (iii) providing support and assistance to

34 department caseworkers regarding educational needs of children; (iv) providing detailed training
35 to department caseworkers on the best practices to monitor a child’s education experiences,
36 recognizing any unavailability of resources preventing a child from participating in school
37 courses, and developing individual education plans or 504 plan; (v) ensuring the timeliness and
38 accuracy of the transfer of education records detailing a child’s educational background and
39 needs; and (vi) maintaining contact with appropriate local school districts and education
40 organizations to facilitate enrollment and placement of children into school districts served by
41 the area office.

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

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

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

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

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

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

53 (b)(1) Annually, not later than October 31, the department shall issue a report that
54 provides an overview of the department’s performance during the previous fiscal year. The

55 commissioner or a designee shall file the report with the governor, the child advocate, the clerks
56 of the senate and house of representatives, the house and senate committees on ways and means
57 and the joint committee on children, families and persons with disabilities. The commissioner
58 shall provide the recipients of the report with an opportunity to discuss its contents with the
59 commissioner or the designee. The report shall be made publicly available on the department's
60 website in accordance with section 19 of chapter 66.

61 (2) The report shall include, but not be limited to, narratives, information, data and
62 analysis on: (i) counts, including but not limited to: (A) case counts; (B) consumer counts; (C)
63 consumer demographic information, including age, race, ethnicity, primary language, gender
64 identity, sexual orientation and disability; (D) the number of consumers who have slept in the
65 department's area offices overnight by region including the average length of stay, the
66 consumers' ages, previous placement type and challenges for finding placement; (E)
67 intersectional data; (F) rates of racial disproportionality and disparity at various decision points
68 throughout the life of a case and the department's efforts including the use of culturally
69 competent staffing, resources and practices, to reduce overrepresentation of children and youth
70 of minority populations in the child welfare system; (G) the number of requests for reasonable
71 accommodations; (H) the number of disability related complaints filed against the department;
72 (I) reports filed pursuant to section 51A of chapter 119; (J) placement metrics; (K) infants
73 brought into the department's care pursuant to section 39½ of chapter 119; (L) siblings in
74 placement; (ii) processes and outcomes including, but not limited to: (A) safety outcomes; (B)
75 the number of fatalities including the manner of death and fatalities by family history with the
76 department; (C) permanency processes and outcomes; (D) well-being outcomes, including the
77 rates and timeliness of the delivery of medical and behavioral health services; (E) educational

78 well-being outcomes, including but not limited to: (1) school placement information; (2) the
79 number of Individualized Education Plans; (3) attendance rates; (4) high school graduation rates
80 and (5) school disciplinary actions; and (iii) operations, including but not limited to: (A) staffing
81 trends; (B) caseloads; (C) the department's budget, including funding levels; (D) service costs;
82 (E) medical services and advancements in providing medical services to children and young
83 adults in the department's care; (F) amounts expended for foster care, adoptive and guardianship
84 families to provide assistance, including financial assistance, to provide for the care of children;
85 (G) the foster care review system and any recommendations for its improvement; (H) services
86 and accommodations available to caregivers and children who are individuals with disabilities;
87 (I) the department's ombudsman including, but not limited to, a summary of the complaints filed
88 by type, and complaints by area office that is primarily involved with the complaint and involved
89 in the case; and (J) any new or ongoing initiatives to improve practices, procedures and policy of
90 the department. The report shall also include comparative departmental information from prior
91 fiscal years

92 (c)(1) Quarterly, not more than 45 days after the end of each fiscal quarter, the
93 department shall issue a quarterly profile on its website in accordance with section 19 of chapter
94 66 that shall include, but not be limited to, departmental, regional office and area office data on:
95 (i) consumer counts; (ii) the number of reports filed pursuant to section 51A of chapter 119,
96 including counts of reports received, screened-in and screened-out in the quarter; (iii) department
97 case counts, including counts of clinical and adoption cases in the quarter; (iv) consumer
98 demographic information, including age, race, ethnicity, primary language, gender identity and
99 sexual orientation and disability; (v) counts of children and youth in placement by type of
100 placement; (vi) counts of children and youth not in placement; and (vi) the number of consumers

101 who have slept in the department's area offices overnight by region including the average length
102 of stay, the consumers' ages, previous placement type and challenge for finding placement.

103 (2) The commissioner or designee shall notify the house and senate committees on ways
104 and means and the joint committee on children, families and persons with disabilities when data
105 from a profile issued pursuant to paragraph (1) significantly departs from trends reported in
106 previous profiles.

107 (d) The commissioner or designee shall notify the joint committee on children, families
108 and persons with disabilities when draft regulations are made available by the department for
109 public comment. Not more than 30 days after the promulgation of regulations or the effective
110 date of adopted or revised departmental policies relative to services provided to children and
111 families, the department shall provide copies of the regulations or departmental policies to the
112 joint committee on children, families and persons with disabilities.

113 (e) If the department is unable to submit the report under subsection (b), issue the profile
114 under subsection (c) or any other legislatively mandated reports by the respective deadlines, the
115 commissioner or the commissioner's legal counsel shall notify the governor, the child advocate,
116 the clerks of the senate and house of representatives, the house and senate committees on ways
117 and means and the joint committee on children, families and persons with disabilities in writing
118 and provide an explanation for the delay.

119 (f) The department, in consultation with the general court, other governmental and
120 nongovernmental partners, shall establish a 5-year plan that shall include numerical targets for
121 the department's performance in each year and in each of its regions in the areas of safety,
122 permanence and well-being. The plan shall include a description of how the department will

123 measure its progress toward meeting the numerical targets and may include different targets for
124 different regions. The department shall update the plan annually.

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

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

134 Section 27. Annually, not later than October 31, the department shall submit a special
135 report on services provided to young adults over the age of 18 to the child advocate, the clerks of
136 the senate and house of representatives, the house and senate committees on ways and means and
137 the joint committee on children, families and persons with disabilities. The report shall
138 summarize the process by which a young adult may continue to receive services from the
139 department upon reaching the legal adult age of 18. The report shall also include consumer
140 demographic information including age, race, ethnicity, primary language, gender identity and
141 sexual orientation and disability, but not be limited to: (i) the number of young adults who have
142 elected to sustain a connection with the department in the previous fiscal year; and (ii) the
143 number of young adults who have elected not to remain with the department and have
144 transitioned out of the child welfare system in the previous fiscal year, including young adults

145 who had previously elected to sustain a connection with the department, if such numbers are
146 available. The department may satisfy the reporting requirements of this section by providing the
147 requested information in an annual report filed under section 26.

148 Section 28. Annually, not later than October 31, the department shall file a special report
149 on its fair hearing processes and cases with the child advocate, the clerks of the senate and house
150 of representatives, the house and senate committees on ways and means and the joint committee
151 on children, families and persons with disabilities. The department may satisfy the reporting
152 requirement of this section by providing the requested information in an annual report filed under
153 section 26. The report shall be made available to the public electronically in accordance with
154 section 19 of chapter 66. The report shall include, but not be limited to, information in a form
155 that shall not include personally identifiable information on the fair hearing requests open at any
156 time during the previous fiscal year and, for each hearing request, shall provide: (i) the subject
157 matter of the appeal; (ii) the outcomes of cases resolved prior to a fair hearing decision; (iii) the
158 number of days between the hearing request and the first day of the hearing; (iv) the number of
159 days between the close of the evidence and the hearing officer's decision; (v) the number of days
160 of continuance granted at the appellant's request; (vi) the number of days of continuance granted
161 at the request of the department or the hearing officer, specifying which party made the request;
162 and (vii) whether the department's decision that was the subject of the appeal was affirmed or
163 reversed.

164 The department shall maintain and make available to the public during regular business
165 hours, a record of its fair hearings in a form that shall not include personally identifiable
166 information and that shall include, for each hearing request: (i) the date of the request; (ii) the
167 date of the hearing decision; (iii) the decision rendered by the hearing officer; and (iv) the final

168 decision rendered upon the commissioner’s review. For fair hearing requests that are pending for
169 more than 180 days at any time during the fiscal year, except for those requests which have been
170 stayed at the request of the district attorney, the report shall provide the number of such cases,
171 how many of those cases have been heard but not decided and how many have been decided by
172 the hearing officer but not yet issued a final agency decision.

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

177 SECTION 10. Section 1 of chapter 18C of the General Laws, as so appearing, is hereby
178 amended by striking out the definition of “Advisory council”.

179 SECTION 11. Section 2 of said chapter 18C, as so appearing, is hereby amended by
180 striking out, in lines 2 and 3, the words “shall be independent of any supervision or control by
181 any executive agency” and inserting in place thereof the following words:- shall be an
182 independent public entity not subject to the supervision and control of any other executive office,
183 department, commission, board, bureau, agency or political subdivision of the commonwealth.

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

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

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

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

194 SECTION 15. Said section 2 of said chapter 18C, as so appearing, is hereby further
195 amended by adding the following 3 paragraphs:-

196 The office shall create and maintain a website that makes available mandated reporter
197 trainings, guidance, statutory reference and best practices materials in 1 online location to all
198 mandated reporters in the commonwealth. The office shall consult with, or partner with, any
199 public or private entity that the child advocate deems relevant to create and maintain this
200 website. The office shall be responsible for ensuring that information on the website remains
201 current.

202 The office shall create and make available to the public, on the website created in this
203 section, evidence-based mandated reporter training for all mandated reporters in the
204 commonwealth. The training shall include, but is not limited to, training in child abuse and
205 neglect reporting, implicit bias training, technical instruction on how to file a 51A report and
206 details on the department's process regarding the filing and treatment of 51A reports. Training
207 shall also include over-reporting prevention, including, but not limited to, how to address
208 concerns with families and children when those concerns do not rise to the level of requiring a
209 maltreatment report and how to understand the difference between poverty and neglect.

210 The office may, as appropriate, expand, update or amend mandated reporter training as
211 appropriate. The office may create additional evidence-based mandated reporter trainings for
212 specific groups of individuals such as educators, childcare workers, social workers and foster
213 parents. The office of the child advocate may consult, or partner with, any public or private
214 entity that the child advocate deems relevant to create, update, expand, implement or amend any
215 mandated reporter trainings the office creates.

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

218 Section 2A. In addition to the powers set forth in section 2, the child advocate, or the
219 child advocate's designee, may intervene in proceedings before the juvenile court described in
220 section 24 of chapter 119 in which matters related to this chapter are in issue.

221 SECTION 17. Section 3 of said chapter 18C, as appearing in the 2020 Official Edition, is
222 hereby amended by inserting after the word "health", in line 10, the following words:- ; the
223 speaker of the house of representatives, or designee; the senate president, or designee; the house
224 minority leader, or designee; the senate minority leader, or designee.

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

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

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

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

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

246 SECTION 21. Section 6 of said chapter 18C, as so appearing, is hereby amended by
247 adding the following sentence:- The child advocate may also request from the clerks of the
248 juvenile court or probate and family court information related to active court cases to which the
249 department is a party, including case numbers and hearing dates.

250 SECTION 22. The first paragraph of section 7 of said chapter 18C, as so appearing, is
251 hereby amended by inserting after the first sentence the following sentence:- The child advocate

252 may also request non-privileged information related to court cases, including case numbers and
253 hearing dates.

254 SECTION 23. Section 11 of said chapter 18C, as so appearing, is hereby amended by
255 striking out, in lines 1 and 2, the words “, in consultation with the advisory council,”.

256 SECTION 24. Section 12 of said chapter 18C, as so appearing, is hereby amended by
257 inserting, in line 36, after the word “personnel,” the following words:- the speaker of the house
258 of representatives, the senate president.

259 SECTION 25. Said chapter 18C, as so appearing, is hereby further amended by inserting
260 after section 14 the following 2 sections:-

261 Section 15. The office shall, annually, oversee the review of child welfare data reporting
262 and make recommendations for improvements to the report and profile required under
263 subsections (b) and (c) of section 26 of chapter 18B and any other legislatively mandated reports,
264 or the data measures, progress measures, and outcome measures pursuant to section 128 of
265 chapter 47 of the acts of 2017. Following the release of the department’s annual report, the office
266 shall seek input from the public, advocates and diverse stakeholders from across the
267 commonwealth. The office shall consult with other individuals with relevant expertise, including
268 academics, researchers and service providers. Annually, not later than January 2, the office shall
269 file a report on its recommendations, together with drafts of any legislation necessary to carry its
270 recommendations into effect, with the clerks of the senate and house of representatives, the
271 senate and house committees on ways and means and the joint committee on children, families
272 and persons with disabilities.

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

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

276 “Fatality”, a death of a child.

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

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

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

281 “Team”, the state or a local team.

282 “Office”, the office of the child advocate.

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

288 The state team shall consist of not less than: (i) the child advocate, or designee, who shall
289 serve as co-chair; (ii) the commissioner of public health, or designee, who shall serve as co-
290 chair; (iii) the chief medical examiner, or designee; (iv) the attorney general, or designee; (v) the
291 commissioner of children and families, or designee; (vi) the commissioner of elementary and
292 secondary education, or designee; (vii) a representative selected by the Massachusetts District

293 Attorneys Association; (viii) the colonel of state police, or designee; (ix) the commissioner of
294 mental health, or designee; (x) the commissioner of developmental services, or designee; (xi) the
295 director of the Massachusetts Center for Unexpected Infant and Child Death at Boston Medical
296 Center, or designee; (xii) the commissioner of youth services, or designee; (xiii) the
297 commissioner of early education and care, or designee; (xiv) a representative selected by the
298 Massachusetts chapter of the American Academy of Pediatrics who has experience in diagnosing
299 or treating child abuse and neglect; (xv) a representative selected by the Massachusetts Health
300 and Hospital Association, Inc.; (xvi) the president of the Massachusetts Chiefs of Police
301 Association Incorporated, or designee; and (xvii) any other person, selected by the co-chairs or
302 by majority vote of the members of the state team, with expertise or information relevant to an
303 individual case. The purpose of the state team shall be to decrease the incidence of preventable
304 child fatalities and near fatalities by: (1) developing an understanding of the causes and incidence
305 of child fatalities and near fatalities; and (2) advising the governor, the general court and the
306 public by recommending changes in law, policy and practice to prevent child fatalities and near
307 fatalities. The state team may consult with the chief justice of the juvenile court department of
308 the trial court of the commonwealth on issues with a direct bearing upon the business of the
309 Massachusetts courts.

310 To achieve its purpose, the state team shall: (i) develop model investigative and data
311 collection protocols for local teams; (ii) provide information to local teams and law enforcement
312 agencies for the purpose of protecting children; (iii) provide training and written materials to
313 local teams to assist them in carrying out their duties; (iv) review reports from local teams; (v)
314 study the incidence and causes of child fatalities and near fatalities in the commonwealth; (vi)
315 analyze community, public and private agency involvement with the children and their families

316 prior to and subsequent to fatalities or near fatalities; (vii) develop a protocol for the collection of
317 data regarding fatalities and near fatalities and provide training to local teams on the protocol;
318 (viii) develop and implement rules and procedures necessary for its own operation; and (ix)
319 provide the governor, the general court and the public with annual written reports, subject to
320 confidentiality restrictions, that shall include, but not be limited to, the state team's findings and
321 recommendations.

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

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

339 enforcement officer, a hospital representative, a medical specialist or subspecialist, or a designee
340 of the commissioners of developmental services, mental health, youth services, education and
341 early education and care.

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

349 To achieve its purpose, each local team shall: (i) review, establish and implement model
350 protocols from the state team; (ii) review, subject to the approval of the local district attorney, all
351 individual fatalities and near fatalities in accordance with the established protocols; (iii) meet
352 periodically, not less than 2 times per calendar year, to review the status of fatality and near
353 fatality cases and recommend methods of improving coordination of services between member
354 agencies; (iv) collect, maintain and provide confidential data as required by the state team; and
355 (v) provide law enforcement or other agencies with information to protect children.

356 At the request of the local district attorney, the local team shall be immediately provided
357 with: (i) information and records relevant to the cause of the fatality or near fatality maintained
358 by providers of medical or other care, treatment or services, including dental and mental health
359 care; (ii) information and records relevant to the cause of the fatality or near fatality maintained
360 by any state, county or local government agency including, but not limited to, birth certificates,

361 medical examiner investigative data, parole and probation information records and law
362 enforcement data post-disposition, except that certain law enforcement records may be exempted
363 by the local district attorney; (iii) information and records of any provider of social services,
364 including the department of children and families, relevant to the child or the child's family, that
365 the local team deems relevant to the review; and (iv) demographic information relevant to the
366 child and the child's immediate family, including, but not limited to, address, age, race, gender
367 and economic status. The district attorney may enforce this paragraph by seeking an order of the
368 superior court.

369 (d) Any privilege or restriction on disclosure established pursuant to chapter 66A, section
370 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, chapter 112, chapter
371 123, section 20B, section 20J or section 20K of chapter 233 or any other law relating to
372 confidential communications shall not prohibit the disclosure of this information to the chair of
373 the state team or a local team. Any information considered to be confidential pursuant to the
374 aforementioned statutes may be submitted for a team's review upon the determination of that
375 team's chair that the review of this information is necessary. The chair shall ensure that no
376 information submitted for a team's review is disseminated to parties outside the team. No
377 member of a team shall violate the confidentiality provisions set forth in the aforementioned
378 statutes.

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

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

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

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

391 (f) Information, documents and records of the state team or of a local team shall not be
392 subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding;
393 provided, however, that information, documents and records otherwise available from any other
394 source shall not be immune from subpoena, discovery or introduction into evidence through
395 these sources solely because they were presented during proceedings of a team or are maintained
396 by a team.

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

399 SECTION 26. Section 2A of chapter 38 of the General Laws, as so appearing, is hereby
400 repealed.

401 SECTION 27. Section 3 of said chapter 38, as so appearing, is hereby amended by adding
402 the following paragraph:-

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

409 SECTION 28. Subsection (f) of section 23 of chapter 119 of the General Laws, as
410 appearing in the 2020 Official Edition, is hereby amended by striking out the sixth sentence.

411 SECTION 29. Subsection (h) of said section 23 of said chapter 119, as so appearing, is
412 hereby further amended by striking out the second paragraph.

413 SECTION 30. Chapter 119 of the General Laws, as so appearing, is hereby amended by
414 inserting after section 23C the following section:-

415 Section 23D. (a) As used in this section, the following words shall, unless the context
416 clearly requires otherwise, have the following meanings:-

417 “Child” means any child, youth or young adult in the care or custody of the department.

418 “Child-specific family” means a non-kinship individual who is significant in a particular
419 child’s life (e.g., school teacher comes forward; child recommends friend's parent).

420 (b) The department must present a copy of the following rights to each child in its care
421 when the child enters care, during foster care review meetings, during permanency planning
422 meetings in which the child is participating and at any other times the department deems
423 appropriate. The child’s social worker must also explain these rights to the child in an age-

424 appropriate way when the child enters care. The department must present the document to the
425 child's attorney and display the document prominently on its website and in all area offices. The
426 department shall ensure the document is translated into the language spoken by the child.

427 (c) The bill of rights for children in foster care shall include, but not be limited to, the
428 following:

429 (1) Safety and Security:

430 (i) Each child shall be treated with respect and shall not be harassed or discriminated
431 against by department staff, foster parents or service providers on the basis of race, national
432 origin, culture, language, ethnicity, sexual orientation, gender, gender identity, gender
433 expression, religion or disability.

434 (ii) Each child has the right to a placement that is free from physical, sexual, emotional or
435 other abuse, neglect or exploitation.

436 (iii) Each child shall have access to healthy food, clothing, personal care products and
437 items that preserve and promote the child's family's culture or religion and the child's specific
438 hair and body needs.

439 (iv) Each child shall be placed in a safe and nurturing environment and receive
440 appropriate care and treatment in the least restrictive setting available that can meet the child's
441 needs. No child shall be placed, housed or detained in a secure department of youth services
442 (DYS) placement based on the department's inability to provide an available and appropriate
443 foster placement, nor shall the department advocate for bail of any amount for children in its care
444 or custody.

445 (v) Each child has the right to age-appropriate information about a foster family or
446 program prior to being placed and, whenever possible, shall have an opportunity to meet the
447 foster parent or program staff before placement occurs. If the foster placement is only able to
448 accommodate the child for a limited time, the child shall be notified of the anticipated duration
449 of the child's stay with that foster placement. The child shall be informed of a placement change,
450 and the reason(s) therefore, at least 5 days in advance of any change. When a change is made in
451 an emergency circumstance, the child shall be given as much notice as possible. The child's
452 belongings shall be packed with care and the child shall be allowed to bring their essential
453 belongings and comfort items with them.

454 (vi) Each child has the right to safe access to personal possessions, personal space and
455 privacy.

456 (2) Connections to Family, Community and Identity:

457 (i) Each child has the right to know, understand, learn and develop the child's racial,
458 cultural, linguistic, gender, religious and ethnic identity, including but not limited to clothing,
459 hair, and other cultural expressions of identity, and to a placement that will provide or maintain
460 the connections necessary to preserve and promote the child's identities.

461 (ii) Each child has the right to be placed according to the child's gender identity and
462 referred to by the child's identified name and gender pronoun. A child's sexual orientation and
463 gender identity and expression shall remain private unless the child permits the information to be
464 disclosed, the disclosure is required to protect the child's health and safety or disclosure is
465 compelled by law or a court order.

466 (iii) Each child has the right for the department to prioritize the child’s parents, relatives
467 and child-specific family first as potential placement providers. The child’s parents and relatives
468 shall be considered first.

469 (iv) Each child has the right for the department to first consider placements with the
470 child’s siblings or half-siblings also removed from the home unless the joint placement is
471 contrary to the safety, well-being, or path to permanency for any of the siblings. Whenever
472 possible, the department shall work to address barriers to placing siblings together. The
473 department shall ensure the child be placed in close proximity to siblings if unable to be placed
474 in the same setting and shall facilitate frequent and meaningful contact regardless of geographic
475 barriers.

476 (v) Each child shall have the right to family time of a duration and frequency that is
477 consistent with the developmental needs of the child. Family time shall take place in-person and
478 outside of a department office whenever possible. Each child shall also have the right to other
479 forms of parental contact, including but not limited to phone calls, videoconferences, email and
480 texts. Congregate care programs should work to facilitate access to virtual forms of contact.
481 Whenever possible, family time shall take place outside of school hours.

482 (vi) Each child has the right to maintain positive contact with other family members and
483 significant positive relationships in the child’s life, including but not limited to teachers, friends
484 and community supports.

485 (vii) Each child has the right to be treated as a family member in a foster family and,
486 whenever possible, be included in a foster family’s activities, holidays and rituals.

487 (viii) Each child has the right to preserve and maintain all languages the child entered
488 care speaking and to a placement that provides or facilitates appropriate language access.

489 (3) Health Care and Accessibility:

490 (i) Each child has the right to access appropriate medical, reproductive, dental, vision,
491 mental and behavioral health services regularly and more often as needed.

492 (ii) Each child has the right to discuss any questions or concerns the child has relating to
493 medication with a social worker or healthcare provider and to understand each of the medications
494 the child takes, its purposes and side effects in a developmentally-appropriate way.

495 (iii) Each child has the right to out-of-home placements that are accessible for any
496 disabilities the child may have and reasonable accommodations as necessary. These
497 accommodations will be provided in a timely manner and in such a way as to protect the privacy
498 of the child with a disability. Each child also has a right to discuss any disabilities with a social
499 worker and request adaptive equipment, auxiliary aids or services.

500 (iv) Each child has the right to access gender-affirming care.

501 (4) Education, Employment and Social Connections:

502 (i) Each child has the right to school, educational stability, educational supports and to an
503 education that fits the child's needs.

504 (ii) Each child has the right to stay in the child's school of origin unless doing so would
505 not be in the child's best interest.

506 (iii) Each child has the right to participate in age-appropriate school, extracurricular,
507 enrichment, religious, cultural, linguistic, ethnic and social activities and to have any placement
508 provider use the reasonable and prudent parenting standard when making decisions regarding
509 participation in such activities.

510 (iv) Each child has the right to achieve developmentally-appropriate, age-related
511 milestones, including but not limited to obtaining a driver's license, opening bank accounts,
512 birthday celebrations or graduations. The department shall cover any costs associated with these
513 milestones.

514 (v) Each child will be informed of the educational, vocational and employment supports
515 available to children through the department, including but not limited to any tuition and fee
516 waivers for post-secondary education.

517 (vi) Each child shall be informed of all available services, including but not limited to
518 assistance in acquiring life skills, educational assistance, financial support, housing support,
519 assistance with credit reports and resolving inaccuracies, training and career guidance to
520 accomplish personal goals and prepare for the future, post-secondary education and employment
521 supports available to children in care and adaptive equipment or auxiliary aids and supports.

522 (vii) Each child shall have age-appropriate education through the department on financial
523 preparedness, job readiness, appropriate use of social media, education options, healthy
524 relationships and sexual and reproductive health.

525 (5) Resources and Supports:

526 (i) The department shall provide reasonable efforts towards reunification to the child and
527 the child's family of origin, pursuant to state and federal law.

528 (ii) Each child has the right to reasonable access to a caseworker who makes case plan
529 decisions. Reasonable access shall include the social worker and supervisor's office telephone
530 numbers and email addresses as well as, at a minimum, monthly visits by the social worker. The
531 department shall also provide the child an emergency contact number available 24 hours a day, 7
532 days a week. Such access must include the opportunity to have private conversations regarding
533 any questions, grievances, or concerns.

534 (iii) Each child shall have the right to participate in the development and review of the
535 service and visitation plans and shall be consulted as the department formulates or updates said
536 plans. Children age 14 and older shall also be presented with the action or service plan for their
537 review and signature.

538 (iv) Each child has the right to be informed in a developmentally-appropriate way of the
539 reason(s) the department became involved with the child's family, why the child came into care
540 and why the child is still in care. Upon turning 18, children will have the right to access their
541 case files, barring any confidential or legally privileged information.

542 (v) Each child age 14 or older has the right to be included in the foster care review
543 meeting, permanency hearing and lead agency team meeting, unless documented by court order
544 that participation would be detrimental to the child. If the child is unable to attend in person or
545 by phone or video, the child shall have the right to submit a written statement to be considered at
546 the meeting.

547 (vi) Each child shall be notified by the department about court dates and the department
548 shall ensure the child understands the child's right to attend court hearings and speak to the judge
549 regarding any decision that may have an impact on the child's life.

550 (vii) Each child has the right to access information contained in medical, dental and
551 educational records held by the department as well as personal documents, including but not
552 limited to social security card, birth certificate, health insurance information, state identification,
553 driver's license or green card in a developmentally-appropriate way. When a child leaves the
554 care of the department, they shall be given copies of medical, dental and educational records held
555 by the department and original copies of all personal documents. The department shall begin
556 planning to return the documents to the child at least 30 days before the child leaves care to be
557 able to give the documents to the child on the day of the child's departure. When a child ages out
558 of care, the department must assist the child in obtaining a state identification card if the child
559 does not have one.

560 (viii) Each child has the right to an attorney upon entering care and to meaningful contact
561 with said attorney. Each child shall be informed by the department of the names and phone
562 numbers of assigned attorneys and be informed by a social worker that the child can contact the
563 attorneys and that there is a process to request a change of attorneys.

564 (ix) Each child shall be informed by the department of the clothing, birthday and holiday
565 payments to foster parents and placement providers for children in placement and that the child
566 has the right to have those payments used to meet the child's needs.

567 (6) Transition Age Youth

568 (i) Every child who turns 18 while in custody of the department is automatically signed
569 out of care of the department but has the right to sign back into department care prior to turning
570 23, pursuant to federal requirements. Every child shall be made aware of this right throughout
571 the transition planning process as well as any federal requirements governing services for
572 transition age youth.

573 (ii) At the age of 14, the department shall begin working with the child to plan their
574 transition from foster care to adulthood. The transition plan should cover all areas needed for a
575 youth to be stable and successful as an adult, including housing, employment, education, and
576 physical and behavioral health.

577 (iii) Every child above age 18 who has chosen to remain in the custody of the department
578 has the right to leave and re-enter custody at any time for any reason.

579 (iv) During the transition planning process, the department shall inform the child of all
580 resources and supports available to the child, including housing, educational and vocational
581 supports.

582 (7) Remedies

583 (i) Each child shall have the right to file complaints with the department's ombudsperson
584 and/or the office of the child advocate and shall be free from retaliation or punishment for
585 asserting this right. The department must provide the child with contact information for the
586 ombudsperson and the office of the child advocate.

587 (ii) Each child shall have the right to have these rights enforced and to report complaints
588 and violations of these rights. If the child, the child's attorney or the child's foster parent or

589 placement provider believes any of the above rights have been violated, the child shall have the
590 right to discuss the alleged violation with a social worker, file a complaint with the office of the
591 child advocate or the department's ombudsperson and/or petition the court for a determination.
592 The department shall not retaliate against or punish a child, an attorney or a foster parent for
593 asserting this right. If the social worker, the office of the child advocate or the court determines
594 the child's rights have been violated, the department shall resolve the violation as soon as
595 practicable.

596 SECTION 31. Subsection (c) of section 26 of said chapter 119, as so appearing, is hereby
597 amended by inserting after the word "custody", in line 90, the following words:- , the child
598 advocate.

599 SECTION 32. Section 27 of said chapter 119, as so appearing, is hereby amended by
600 inserting after the word "child", in line 2, the following words:- , the child advocate.

601 SECTION 33. Subsection (e) of section 29B of said chapter 119, as so appearing, is
602 hereby amended by inserting after the word "adult", in line 84, the following words:- , the child
603 advocate.

604 SECTION 34. Section 39½ of said chapter 119, as so appearing, is hereby amended by
605 striking out the eighth paragraph.

606 SECTION 35. Section 51D of said chapter 119, as so appearing, is hereby amended by
607 striking out the eighth paragraph.

608 SECTION 36. Section 51E of said chapter 119, as so appearing, is hereby amended by
609 striking out, in line 2, the figure "51D" and inserting place thereof the following figure:- 51C.

610 SECTION 37. Section 5E of chapter 210 of the General Laws, as appearing in the 2020
611 Official Edition is hereby repealed.

612 SECTION 38. Item 4800-0015 of section 2 of chapter 126 of the acts of 2022 is hereby
613 amended by striking out the words “provided further, that on December 1, 2022, and March 1,
614 2023, the department shall report to the house and senate committees on ways and means and the
615 joint committee on children, families and persons with disabilities on: (i) the fair hearing
616 requests filed in fiscal year 2023, using nonidentifying information which shall state, for each
617 hearing request: (a) the subject matter of the appeal; (b) the number of days between the hearing
618 request and the first day of the hearing; (c) the number of days between the first day of the
619 hearing and the hearing officer’s decision; (d) the number of days between the hearing officer’s
620 decision and the agency’s final decision; (e) the number of days of continuance granted at the
621 appellant’s request; (f) the number of days of continuance granted at the request of the
622 department of children and families or the hearing officer’s request, specifying which party made
623 the request; and (g) whether the department’s decision that was the subject of the appeal was
624 affirmed or reversed; and (ii) the fair hearing requests filed before fiscal year 2023, which have
625 been pending for more than 180 days, stating the number of those cases, how many of those
626 cases have been heard but not decided and how many have been decided by the hearing officer
627 but not yet issued as a final agency decision; provided further, that the department shall maintain
628 and make available to the public, during regular business hours, a record of its fair hearings, with
629 identifying information removed, including for each hearing request: the date of the request, the
630 date of the hearing decision, the decision rendered by the hearing officer and the final decision
631 rendered upon the commissioner’s review; provided further, that the department shall make
632 redacted copies of fair hearing decisions available within 30 days of a written request; provided

633 further, that the department shall not make available any information in violation of federal
634 privacy regulations; provided further, that not later than March 1, 2023, the department shall
635 submit a report to the house and senate committees on ways and means and joint committee on
636 children, families and persons with disabilities that shall include, but not be limited to, the: (1)
637 number of medical and psychiatric personnel and their level of training currently employed by or
638 under contract with the department; (2) number of foster care reviews conducted by the
639 department and the average length of time in which each review is completed; (3) the number of
640 social workers and supervisors who have earned a bachelor's or master's degree in social work;
641 (4) the total number of social workers and the total number of social workers holding licensure,
642 by level; (5) number of the department's contracts reviewed by the state auditor and the number
643 of corrective action plans issued; and (6) number of corrective action plans entered into by the
644 department; provided further, that on the first business day of each quarter, the department shall
645 file a report with the house and senate committees on ways and means and the joint committee
646 on children, families and persons with disabilities on the caseload of the department; provided
647 further, that the report shall include, but not be limited to: (A) the caseloads of residential
648 placements, congregate care, foster care, therapeutic foster care, adoption, guardianship, 51A
649 reports, substantiated 51A reports, the number of children who die in the care and custody of the
650 department, the number of children currently eligible for supportive child care, the number of
651 children presently receiving supportive child care and the number of medical and psychiatric
652 consultation requests made by the department's social workers; (B) the number of approved
653 foster care placements; (C) the number of children in psychiatric hospitals and community-based
654 acute treatment programs who remain hospitalized beyond their medically-necessary stay while
655 awaiting placement and the number of days each case remains in placement beyond that which is

656 medically necessary; (D) the number of children under the department of children and families'
657 care and custody who are being served in medical or psychiatric care provided through other
658 publicly-funded sources; (E) the number of children served by supervised visitation centers and
659 the number of those children who are reunified with their families; (F) the total number of
660 children served, their ages, the number of children served in each service plan, the number of
661 children in out-of-home placements and the number of placements each child has had before
662 receiving an out-of-home placement; (G) for each area office, the number of kinship
663 guardianship subsidies provided in the quarters covered by the report and the number of kinship
664 guardianship subsidies provided in that quarter for which federal reimbursement was received;
665 (H) for each area office, the total spending on services other than case management services
666 provided to families to keep a child with the child's parents or reunifying the child with the
667 child's parents, spending by the type of service including, but not limited to, the number of
668 children and a breakdown of spending for respite care, intensive in-home services, client
669 financial assistance and flexible funding, community-based after-school social and recreation
670 program services, family navigation services and parent aide services and the unduplicated
671 number of families that receive the services; (I) for each area office, the total number of families
672 residing in shelters paid for by the department, a list of where the families are sheltered, the total
673 cost and average cost per family at those shelters and a description of how the department
674 determines who qualifies or does not qualify for a shelter; (J) for each area office, the number of
675 requests for voluntary services, broken down by type of service requested, whether the request
676 was approved or denied, the number of families that were denied voluntary services and received
677 a 51A report, the reasons for denying the service and what, if any, referrals were made for
678 services by other agencies or entities; (K) the number of families receiving multiple 51A reports

679 within a 10-month period, the number of cases reopened within 6 months of being closed and the
680 number of children who return home and then reenter an out-of-home placement within 6
681 months; (L) the number of children and families served by the family resource centers by area;
682 and (M) the number of children within the care and custody of the department whose
683 whereabouts are unknown; provided further, that not later than January 31, 2023, the department
684 shall submit a report to the house and senate committees on ways and means and the joint
685 committee on children, families and persons with disabilities that details any changes to said
686 rules, regulations or guidelines established by the department in the previous fiscal year to carry
687 out its duties under chapter 119 of the General Laws including, but not limited to: (I) criteria
688 used to determine whether a child has been abused or neglected; (II) guidelines for removal of a
689 child from the home; and (III) standards to determine what reasonable efforts are being made to
690 keep a child in the home; provided further, that on a monthly basis, the department shall provide
691 the caseload forecasting office with data on children receiving services and other pertinent data
692 related to items 4800-0038 and 4800-0041 that is requested by the office; provided further, that
693 the report shall also contain the number of children and families served by the family resource
694 centers, by area, and an evaluation of the services provided and their effectiveness.”