

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul R. Feeney***

*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 establishing medical panels for the probate and family court department.

PETITION OF:

NAME:

*Paul R. Feeney*

DISTRICT/ADDRESS:

*Bristol and Norfolk*

**SENATE . . . . . No.**

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By Mr. Feeney, a petition (accompanied by bill, Senate, No. ) (subject to Joint Rule 12) of Paul R. Feeney for legislation to establish medical panels for the probate and family court department. The Judiciary.

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**The Commonwealth of Massachusetts**

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

An Act establishing medical panels for the probate and family court department.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 215 of the General Laws is hereby amended by adding the following section:-

2 Section 6D. (a) The chief justice of the probate and family court department shall  
3 establish a procedure for convening a medical panel to assist in the determination of any relevant  
4 or potentially relevant medical issue raised in any proceeding before the court in which there is a  
5 contested petition for the appointment of a guardian or conservator of a minor or incapacitated  
6 person, or for custody of a minor. or any request to modify the existing custody or guardianship  
7 arrangement. The medical panel may review medical and other relevant records designated by  
8 the parties, examine the minor or incapacitated person and issue a certificate answering questions  
9 set forth in subsection (e) to assure that decisions in cases raising material medical issues are as  
10 medically informed as possible.

11 (b) The chief justice, in consultation with the Massachusetts Medical Society, shall  
12 recruit and maintain a pool of physicians to serve on medical panels. Recruited physicians shall

13 be licensed to practice medicine in the commonwealth and skilled in branches of medicine  
14 relevant to the capacities, limitations, needs, opportunities, and physical and mental health of  
15 minors or incapacitated persons.

16 (c) Upon a party's granted petition to the presiding judge for a medical examination or  
17 the presiding judge's order for a medical examination, the chief justice shall appoint no fewer  
18 than 3 physicians from the pool to serve on a medical panel. The court shall issue to the parties a  
19 notice stating the medical panel members selected for the specific matter at hand and their  
20 respective medical specialties.

21 (d) A physician selected from the pool by the chief justice to serve on a medical panel  
22 shall not be an associated physician, as defined in section 6 of chapter 32, and shall not have  
23 previously treated the incapacitated person or minor for whom a guardianship or conservatorship  
24 is proposed or examined or served on a panel that previously examined and evaluated, for any  
25 purpose, such person or minor.

26 (e) Within 30 days after completing an examination pursuant to this section, or within  
27 such other time as the court may order for good cause upon the medical panel's request, the  
28 medical panel shall issue a written, supporting report establishing its answer to each of the  
29 following questions is unanimous or, if not unanimous, by each of the members of the panel  
30 majority and minority members:

31 (i) whether the minor or incapacitated person has, for reasons other than advanced age or  
32 minority, a clinically diagnosed condition that results in an inability to receive and evaluate  
33 information or make and communicate decisions to such an extent that the individual lacks the

34 ability to meet essential requirements for physical health, safety or self-care, even with  
35 appropriate technological assistance;

36 (ii) whether the clinically diagnosed condition is likely to be permanent; and

37 (iii) whether there is a less restrictive means of providing the health, safety or self-care  
38 the minor or incapacitated person requires, taking into account generally accepted medical  
39 treatment and practice, and appropriate technological assistance including the use of equipment  
40 or computer hardware and software that may increase or improve the minor or incapacitated  
41 person's capacity and ability to become more independent, and whether there are ways to  
42 minimize potentially toxic medications or physical restraints which impair the quality of life and  
43 capacity for enjoyment while still ensuring the individuals' safety.

44 The medical panel shall attach to their report a certificate certifying that their findings  
45 were arrived at independently of each other and free of undue influence of any kind.

46 Within the same time period, the person to be examined, or that person's counsel, shall  
47 file and serve a statement of that person's preference for a simultaneous examination by the panel  
48 or separate examinations by each of the panel members.

49 (g) The administrator of the medical panel program shall use best efforts to assure  
50 compliance with applicable time limits, any of which may be modified for good cause.

51 (h) Upon success completion of service on a court-appointed medical panel, each panel  
52 member shall receive a certification of panel service denoting the dates of service.