

SENATE No.

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.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE DOCKET, NO. 3132 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

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
17 or 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
22 panel shall not be an associated physician, as defined in section 6 of chapter 32, and shall not
23 have previously treated the incapacitated person or minor for whom a guardianship or
24 conservatorship is proposed or examined or served on a panel that previously examined and
25 evaluated, for any purpose, such person or minor.

26 (e) Within 30 days after completing an examination pursuant to this section, or
27 within such other time as the court may order for good cause upon the medical panel's request,
28 the 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
32 age or minority, a clinically diagnosed condition that results in an inability to receive and

33 evaluate information or make and communicate decisions to such an extent that the individual
34 lacks the 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-
38 care 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
45 findings 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,
47 shall file and serve a statement of that person's preference for a simultaneous examination by the
48 panel or separate examinations by each of the panel members.

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

53 (h) A party to a relevant proceeding, or a guardian, may petition the court for a
54 temporary order granting an emergency medical examination relevant to the care, custody and
55 maintenance of a minor or incapacitated person who is a party to a proceeding before the court.
56 The chief justice may draw 3 physicians from the medical panel pool to perform an emergency
57 medical evaluation if determined to be necessary by the court. The chief justice may assign a
58 reasonable timeframe with which to select medical pool members to perform the emergency
59 medical evaluation, pursuant to the reporting requirements of subsection (e). Every order entered
60 relative to care and custody, or guardianship, shall include specific findings of fact made by the
61 court which clearly demonstrate the injury, harm or damage that might reasonably be expected to
62 occur if relief pending a judgment is not granted.