

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Tuesday, February 26, 2008.

Met at six minutes past one o'clock P.M. (Mr. Rosenberg in the Chair).

Petitions.

Petitions were presented and referred, as follows:

By Mr. Brewer, a petition (subject to Joint Rule 12) of Stephen M. Brewer for legislation to establish a sick leave bank for Michelle Curnew, an employee of the Department of Mental Retardation; and

By Mr. Galluccio, a petition (subject to Joint Rule 12) of Anthony D. Galluccio, Anthony J. Verga, Thomas M. McGee and Timothy J. Toomey, Jr. for legislation relative to age restrictions for veterans applying to be police officers and firefighters;
Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Ms. Fargo, for the committee on Public Health, on Senate, Nos. 1232 and 1243 and House, No. 2124, a Bill requiring automated external defibrillators in schools (Senate, No. 1243);

By the same Senator, for the same committee, on petition, a Bill to establish a vision care registry (Senate, No. 1273);

By the same Senator, for the same committee, on petition, a Bill relative to tax credits for the purchase of hearing aids (Senate, No. 1331); and

By the same Senator, for the same committee, on Senate, Nos. 1269, 1271, 1277, 1284 and 1297 and House, Nos. 2072, 2073, 2113, 2137, 2207, 2226, 3885 and 4242, a Bill promoting healthcare transparency and consumer-provider partnerships (Senate, No. 2517);

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Moore, for the committee on Health Care Financing, on Senate, No. 671 and House, Nos. 134 and 4276, a Bill relative to children's mental health (Senate, No. 2518) [Estimated cost — More than \$100,000];

Read and, under Senate Rule 27, referred to the committee on Ways and Means.

Committee Discharged.

Mr. Downing, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration

Of the Senate Order relative to authorizing the joint committee on Financial Services to make an investigation and study of certain current Senate documents relative to financial services (Senate, No. 2507); and

Of the Senate Order relative to authorizing the joint committee on Health Care Financing to make an investigation and study of certain current Senate documents relative to health care financing (Senate, No. 2508);

And recommending that the same severally be referred to the Senate committee on Ethics and Rules.

Under Senate Rule 36, the reports were severally considered forthwith and accepted.

PAPERS FROM THE HOUSE.

Bills

Relative to a certain reserve fund in the town of Oak Bluffs (House, No. 4041,— on petition) [Local approval received]; and Relative to town meeting members in the town of Framingham (House, No. 4432,— on petition) [Local approval received]; **Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

A report of the committee on Labor and Workforce Development, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 1079) of Michael W. Morrissey and William Salisbury for legislation relative to worker's compensation as it relates to employees who are members of the armed services or national guard, and recommending that the same be referred to the committee on Veterans and Federal Affairs,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence.**

There being no objection, at seven minutes past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at ten minutes before two o'clock P.M. the Senate reassembled, the President in the Chair.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:— Resolutions (filed by Mr. Joyce) “congratulating Doris M. Curran on her eightieth birthday”; Resolutions (filed by Messrs. Pacheco and Brewer) “congratulating Paul E. Rogers on receiving the Stockbridge Alumni Association's Prestigious ‘S’ Award”; and Resolutions (filed by Ms. Walsh) “congratulating Michael Kilgannon on the celebration of his leap year birthday.”

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

February 25, 2008.

Mr. William Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

I will be out of state on official business at The Healthcare Information and Management Systems Society's Annual Conference during Tuesday, February 26, 2008's formal session. Any roll call votes that I miss are entirely for this reason.

I respectfully request that a copy of this letter be printed in the Journal of the Senate. Thank you in advance for your assistance.

Sincerely,
RICHARD T. MOORE,
State Senator,
Worcester and Norfolk District.

On motion of Mr. Galluccio, the above communication was ordered printed in the Journal of the Senate.

Orders of the Day.

The Orders of the Day were considered, as follows:

The Senate Bill providing improved management of state forests (Senate, No. 481, amended),— **was read a third time and, after remarks, was passed to be engrossed. Sent to the House for concurrence.**

The Senate Bill relative to the retirement system options for certain teachers at the Massachusetts Academy of Math and Science at WPI (Senate, No. 2515) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third**

**time and, after remarks, was passed to be engrossed.
Sent to the House for concurrence.**

The House Bill relative to child abuse and neglect (House, No. 4333, printed as amended),— **was considered; the main question being on ordering the bill to a third reading.**

The pending amendment, previously recommended by the committee on Ways and Means, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2472; and by striking out the title and inserting in place thereof the following title: “An Act to protect the children of the Commonwealth.”,— **was considered.**

After debate, Mr. Brown moved to amend the bill by inserting the following new sections:—

“SECTION 121A. Section 100A of chapter 276 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word ‘court,’ in line 69, the following words:— a victim of a sex offense, as defined in section 178C of chapter 6, or a parent or guardian thereof, seek information on such sex offense if the victim was 18 or younger and the offender was older than 18 when the offense of committed.

SECTION 121B. Section 63 of chapter 277 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the following phrase, starting in line 6 and ending in line 11, the following:— ‘; but any indictment or complaint found and filed more than 27 years after the date of commission of such offense shall be supported by independent evidence that corroborates the victim’s allegation. Such independent evidence shall be admissible during trial and shall not consist exclusively of the opinions of mental health professionals.’

SECTION 121C. Said section 63 of said chapter 277, as so appear-ing, is hereby further amended by striking out, in lines 25 and 26, the words ‘, thirteen B, thirteen F, twenty-two, twenty-two A, twenty-three, twenty-four B’.

SECTION 121D. Section 121B and 121C shall be deemed to be retroactive to the fullest extent permitted under the Constitution of the United States and the Declaration of Rights of the Commonwealth of Massachusetts.”

Mr. Panagiotakos arose to a point of order which, being stated, was that the amendment was beyond the scope of the bill before the Senate.

The President issued the following ruling:

The House Bill relative to child abuse and neglect (House, No. 4333) and the Senate Ways and Means new text (Senate, No. 2472) are bills primarily for the establishment of a new structure of state government through which the state hopes to streamline the care of children who have been abused and neglected. The bills call for creation of new departments within the Executive branch and the duties incumbent on the employees of that department to protect children. In no instance does the House Bill, the Senate new text nor any of the petitions that accompany the House Bill delve into the subject matters of the sex offender registry or any criminal procedures incumbent upon perpetrators of alleged abuse and neglect. These pieces of legislation deal with how the state protects children only. These amendments may be valid and worthwhile in the context of bills dealing with child predators and criminal penalties and punishment. But the bills before the Senate deal with none of these issues and thus the amendment is beyond the limited scope of this piece of legislation.

Therefore, the point of order was well taken; and the amendment was laid aside.

Mr. Brown moved to amend the bill by inserting after section 99 the following section:—

“SECTION 99A. Paragraph (b) of subsection (2) of section 178K of chapter 6 of the General Laws, as most recently amended by section 20 of chapter 77 of the acts of 2003, is hereby further amended by inserting after the first sentence the following:—

If an offender designated as a level 2 offender was convicted of a sex offense involving a child, such offender shall be given a level 2(a) designation and shall be subject to the level 3 community notification requirements. If an offender designated as a level 2 offender committed any offense other than a sex offense involving a child, such offender shall be given a level 2(b) designation and shall be subject to the requirements of a level 2 offender.”

The President stated that this amendment was also beyond the scope based on the previous ruling and the amendment was laid aside.

Mr. O’Leary moved to amend the bill by inserting the following new section:—

“SECTION 21A. Section 19 of chapter 15A, of the General Laws, as so appearing, is hereby amended by inserting in line

number 51, after the word ‘division.’, the following new text:— ‘The commonwealth, not the institutions of public higher education, shall bear the cost of such waivers after all reimbursements from the federal government have been exhausted.’ ”
After remarks, the amendment was adopted.

Ms. Creem moved to amend the bill in section 45, by inserting at the end of section 9(e) the following new paragraph:—

“(23) The effectiveness of the state’s child abuse laws as they relate to defining, prohibiting, preventing and reporting cases of emotional abuse of children, including recommendations to increase public and professional education and awareness of the symptoms and impact of emotional abuse.”

The amendment was adopted.

Messrs Tarr, Knapik, Tisei, Hedlund, Brown and Montigny moved to amend the bill in section 92 by inserting the following subsection:—

“(1) The department shall adopt regulations, policies or protocols to require a review by a regional clinical review team when 3 or more reports involving separate incidents have been filed on a single child under this section within 3 months and a review by an area clinical review team when 3 or more reports involving separate incidents have been filed on a single child under this section within 3 years, regardless of whether the department investigated any or all of the reports.”; and

In section 31 by inserting the following subsection:—

“(n) The department shall report quarterly to the office of the child advocate the total number of cases, the types of cases, and the resolutions, that were reviewed by the department under subsection (1) of section 51A of chapter 119.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at a half past three o’clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 178**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petruccelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne —

	36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Moore, Richard T. — 3.
Creem, Cynthia Stone	

The yeas and nays having been completed at twenty-one minutes before four o'clock P.M., the amendment was rejected.

There being no objection, during consideration of the Orders of the Day, the following matters were considered as follows:

PAPERS FROM THE HOUSE.

Engrossed Bills — Land Takings for Conservation, Etc.

An engrossed Bill authorizing the town of Westford to convey certain land (see House, No. 4431) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at fourteen minutes before four o'clock P.M., as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 179**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	

Berry, Frederick E.	Moore, Richard T. — 3.
Creem, Cynthia Stone	

The yeas and nays having been completed at eight minutes before four o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

An engrossed Bill relative to an exchange of land in the town of Swansea (see House, No. 4440) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at seven minutes before four o'clock P.M., as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 180**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Moore, Richard T. — 3.
Creem, Cynthia Stone	

The yeas and nays having been completed at four minutes before four o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The House Bill relative to child abuse and neglect (House, No, 4333, printed as amended),— **was further considered; the main question being on ordering the bill to a third reading. The pending amendment, previously recommended by the committee on Ways and Means, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2472; and by striking out the title and inserting in place thereof the following title: “An Act to protect the children of the Commonwealth.”,— was further considered.**

Ms. Menard in the Chair, Messrs. Brown, Panagiotakos, Tisei, Tarr, Knapik and Hedlund moved to amend the bill by inserting after section 100 the following 3 sections:—

“SECTION 100A. Section 6B of chapter 201 of the General Laws, as so appearing, is hereby amended by adding the following 2 sentences:— The court shall not appoint as guardian any person petitioning for guardianship who is: (i) currently being investigated for, has been charged with, or has been accused of committing an assault and battery that resulted in serious bodily injury to such incapacitated or ill person; or (ii) is currently being investigated for, has been charged with, or has been accused of neglect of such incapacitated or ill person. The court shall terminate a guardianship appointed under this section if, upon petition, it is established that the guardian is: (i) currently being investigated for, has been charged with, or has been accused of committing an assault and battery that resulted in serious bodily injury to such incapacitated or ill person; or (ii) is currently being investigated for, has been charged with, or has been accused of neglect of such incapacitated or ill person.

SECTION 100B. Section 7 of chapter 201D of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 to 10, inclusive, the words ‘, or (ii) the divorce or legal separation of the principal and his spouse, where the spouse is the principal’s agent under a health care proxy’ and inserting in place thereof the following words:— ; (ii) the divorce or legal separation of the principal and his spouse, if the spouse is the principal’s agent under a health care proxy; or (iii) removal of the proxy, under section 17, upon a determination that the proxy is, in part, responsible for the incapacity or illness of the principal.

SECTION 100C. Section 17 of said chapter 201D, as so appearing, is hereby further amended by striking out, in line 10, the words ‘or is acting in bad faith’ and inserting in place thereof the following words:— , is acting in bad faith, or the agent is, in part, responsible for the incapacity or illness of the principal.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at four o'clock P.M., on motion of Mr. Brown, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 181**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.

Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Moore, Richard T. — 3.
Creem, Cynthia Stone	

The yeas and nays having been completed at three minutes past four o'clock P.M., the amendment was adopted.

Mr. Panagiotakos moved to amend the bill by striking out section 12;

In section 20, by striking out, in line 225, the word "tuition";

In section 25, by striking out, in line 261, the figure "(19)" and inserting in place thereof the following figure:— "(9)";

In said section 25, by striking out, in lines 269 to 272, inclusive, the words "and"

(15) coordination and access to medical, dental and mental health services for children in foster care including circumstances under which such services are facilitated or provided for by another state agency." and by inserting in place thereof the following 2 clauses:—

"(15) coordination and access to medical, dental and mental health services for children in foster care including circumstances under which such services are facilitated or provided for by another state agency; and

(16) child care placements for children whose families have an open case with the department.";

In section 45, by inserting after the word advocate, in line 540, the following words:— "which shall be independent of any supervision or control by any executive agency";

In said section 45, by striking out section 4 of the proposed chapter 18C of the General Laws, and inserting in place thereof the following section:—

"Section 4. (a) The department shall inform the child advocate when a critical incident has occurred. The child advocate may conduct an investigation of the critical incident or may review an executive agency's investigation of a critical incident. When the child advocate conducts his own investigation, he shall determine: (1) the factual circumstances surrounding the critical incident; (2) whether an agency's activities or services provided to a child and his family were adequate and appropriate and in accordance with agency policies and state and federal law; and (3) whether the agency's policies, regulations, training or delivery of services or state law can be improved.

(b) Before investigating any critical incident, the child advocate shall determine whether an executive or law enforcement agency is already conducting an investigation. If a law enforcement agency is conducting an investigation, the child advocate shall, when appropriate, defer to that agency or may conduct his own investigation. The child advocate shall coordinate efforts to minimize the impact on the child, family or employees of the agency involved, unless he determines such coordination would impede his investigation. If an executive agency is conducting an investigation, the child advocate may defer to that investigation or may conduct his own investigation. The child advocate may coordinate efforts to minimize the impact on the child, family or employees of the agency involved. In every instance, the child advocate shall notify the head of the relevant agency of his involvement before beginning any investigation.

(c) The child advocate shall receive complaints relative to the provision of services to children by an executive agency and shall review and monitor the complaints that reasonably cause him to believe that a child may be in need of assistance and to ensure that the complaint is resolved. If the complaint is not resolved by the relevant executive agency within a reasonable period of time in light of the circumstances, if the resolution is determined to be unsatisfactory to the child advocate, or if the complaint reasonably causes the child advocate to believe that a child may be in need of immediate assistance, he may conduct an investigation of the complaint.

(d) The child advocate shall receive complaints from children in the care of the commonwealth and assist such children in resolving problems and concerns associated with their placement, plans for life-long adult connections and independent living, and decisions regarding custody of persons aged between 18 and 22, including ensuring that the relevant executive agency or agencies have been alerted to the complaint and facilitating intra-agency cooperation, if appropriate. For the purposes of this section, the office shall develop procedures to ensure appropriate responses to the concerns of youth in foster care 24 hours a day, 7 days a week.

(e) The child advocate shall periodically review, report and make recommendations, as appropriate, with respect to system-wide improvements that may increase the effectiveness of the care and services provided to children and their families and suggested legislative and regulatory changes including, but not limited to, a review of the programs and procedures established by the department to provide and administer a comprehensive child welfare program under section 2 of chapter 18B.

(f) At the request of the governor, the child advocate shall perform oversight functions to ensure that agencies serving children are fulfilling their obligations in the most effective and efficient manner.

(g) The child advocate shall undertake activities designed to educate the public regarding the services of the office and of the mission of the executive agencies in providing services to children and families.

(h) The child advocate shall be authorized to apply for, and accept on behalf of the commonwealth, federal, local or private grants, bequests, gifts or contributions for the purpose of carrying out the functions of the office.”;

In said section 45, by striking out section 6 of the proposed chapter 18C of the General Laws, and inserting in place thereof the following section:-

“Section 6. The child advocate may require the attendance and testimony of witnesses and the production of documents, papers, books, records, reports, reviews, recommendations, correspondence, data and other evidence that he reasonably believes is relevant in any matter which he has authority to investigate. For that purpose, the child advocate shall have the power to issue a subpoena for any witness and the production of such documents and any other data and evidence that he reasonably believes is relevant in any matter which he has authority to investigate. Such subpoena shall be served in the same manner as a summons for the production of documents in civil cases issued on behalf of the commonwealth, and all provisions of law relative to said summons shall apply to a subpoena issued under this section.

Any justice of the superior court department of the trial court may, upon application by the child advocate, issue an order to compel the testimony of witnesses and the production of documents, papers, books, records, reports, reviews, recommendations, correspondence, data and other evidence requested by the child advocate in the same manner and to the same extent as before said superior court department. Any failure to obey such order may be punished by said court as contempt.

A person upon whom a subpoena is served may object to the subpoena by filing a motion to quash in the superior court department of the trial court.”;

In said section 45, by striking out, in line 677, the word “for” and inserting in place thereof the following words:— “to recommend”;

In said section 45, by inserting after the words “juvenile court department”, in line 689, the following words:— “the juvenile session of the district court department”;

In said section 45, by inserting after the word “address”, in line 696, the following words:— “any or all of”;

In said section 45, by inserting after the word “model”, in line 741, the following words:— “or other nationally recognized models to strengthen child welfare practice”;

In said section 45, by striking out, in lines 821 to 825, inclusive, the words “Any privilege or restriction on disclosure established under chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, sections 51E and 51F of chapter 119, chapter 112, chapter 123, or sections 20B, 20J, or 20K of chapter 233 shall not prohibit the disclosure of this information to the child advocate” and inserting in place thereof the following words:— “Notwithstanding chapter 66A, section

70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, sections 51E and 51F of chapter 119, chapter 112, chapter 123, or sections 20B, 20J, or 20K of chapter 233 to the contrary, the disclosure of information to the office of the child advocate under this section shall not be prohibited”;

In said section 45, by striking out, in line 829, the words “, unless such dissemination is authorized under section 5”;

In said section 45, in section 10 of the proposed chapter 18C of the General Laws, by striking out subsections (d) and (e) and inserting in place thereof the following subsection:—

“(d) The restrictions of this section shall not preclude the child advocate from sharing with the governor, the attorney general, a district attorney, a secretary, an agency commissioner or other agency personnel, or the chairs of the joint committee on children, families and persons with disabilities, the report of, or the results of, a critical incident investigation involving that agency. Any executive or legislative branch employees who receive or read such a document shall be bound by the confidentiality requirements of this section.”;

By inserting after section 53 the following 2 sections:—

“SECTION 53A. Said section 2A of said chapter 38, as so appearing, is hereby further amended by striking out, in lines 26 to 34, inclusive, the clauses (9) and (10) and inserting in place thereof the following 3 clauses:—

(9) the commissioner of public health, or his designee;

(10) the child advocate, or his designee; and

(11) any other person with expertise or information relevant to individual cases who may attend meetings on an ad hoc basis, by agreement of the permanent members of each local team. Such persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of the departments of mental retardation, mental health, youth services and education.

SECTION 53B. Said section 2A of said chapter 38, as so appearing, is hereby further amended by striking out clause (16) and inserting in place thereof the following clause:—

(16) the child advocate, or his designee; and.”;

In section 82, by inserting after the word “officer”, in line 1165, the following words:— “; the child advocate appointed under section 3 of chapter 18C”;

In said section 82, by striking out, in line 1230, the words “a probate court order to accept” and inserting in place thereof the following words:— “, and shall accept, an order of the probate court granting the”;

In said section 82, by striking out, in lines 1344 to 1347, inclusive, the words “The department shall, subject to appropriation, provide assistance which shall include maintenance payments, to adoptive and guardianship families at the daily rate in effect on the date on which the adoption or guardianship commences” and inserting in place thereof the following words:— “The department shall periodically review the level of assistance including maintenance payments provided to adoptive and guardianship families and may, subject to appropriation, adjust such assistance as warranted by the financial circumstances of the family, the needs of the child or the rate of inflation”;

In said section 82, by striking out the proposed section 26B of chapter 119 of the General Laws, and inserting in place thereof the following section:—

“Section 26B. Whenever a child is placed in family foster care, the court and the department shall ensure that grandparents, upon their request, have access to reasonable visitation rights with the child who is in the department’s care or is the subject of the petition and that the department establishes a schedule for such visitation unless it is determined by the court or the department that such visitation is not in the child’s best interests. In determining the best interests of the child, the court or the department shall consider the goal of the service plan and the relationship between the grandparents and the child’s parents or legal guardian. Upon recommendation by the department or on its own accord, the court may establish reasonable conditions governing grandparent visitations including, but not limited to, requiring that the grandparents be restrained from revealing the whereabouts of the child’s placement. Grandparents of a child who is placed with the department voluntarily under clause (1) of subsection (a) of section 23, or placed in the custody of the department under an adoption surrender under section 2 of chapter 210, who are denied visitation rights by the department may appeal through the department’s fair hearing process. Grandparents may appeal the decision reached through the department’s fair hearing process by filing a petition in the probate and family court for visitation. Grandparents of a child placed in the custody of the department may file a petition for visitation in the court which has committed the child to the custody of the department.

The court or the department shall, whenever reasonable and practical and based upon a determination of the best interests of the child, ensure that children placed in foster care shall have access to and visitation with siblings in other foster or pre-adoptive homes or in the homes of parents or extended family members throughout the period of placement in the care and custody of the commonwealth, or subsequent to such placements, if the children or their siblings are separated through adoption or long-term or short-term placements in foster care.

The court or the department shall determine, at the time of the initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive or adoptive care, that such visitation rights be implemented through a schedule of visitations or supervised visitations, to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, and the child, if reasonable, and other parties who are relevant to the preservation of sibling relationships and visitation rights.

A child in foster care or sibling of a child placed voluntarily under clause (1) of subsection (a) of section 23 or under an adoption surrender under section 2 of chapter 210, who are denied visitation rights by the department, may appeal through the department's fair hearing process. Such child or sibling may appeal the decision reached through the department's fair hearing process by filing a petition in the probate and family court for visitation. For children in the custody of the department, a child, sibling, parent, legal guardian or the department may file a petition for sibling visitation in the court committing the child to the custody of the department.

A parent against whom a decree to dispense with consent to adoption has been entered under clause 4 of subsection (b) of section 26, or section 3 of chapter 210, or who has signed a voluntary adoption surrender under section 2 of chapter 210 shall not have the rights provided under this section as to the child who is the subject of such decree or surrender.

Periodic reviews shall evaluate the effectiveness and appropriateness of the visitations between such siblings.

Any child who has attained the age of 12 years, may request visitation rights with siblings who have been separated and placed in care or have been adopted in a foster or adoptive home other than where the child resides.

A child, parent, guardian, grandparent or the department may appeal a decision or order of the trial court to the appeals court under this section if such person or the department is a party thereto. The claim of appeal shall be filed in the office of the clerk or register of the trial court within 30 days following the court's decision or order. Thereafter, the appeal shall be governed by the Massachusetts Rules of Appellate Procedure.”;

In section 83, by striking out, in line 1641, the word “department” and by inserting in place thereof the following words:— “and the juvenile court departments”;

In section 87, by inserting after the word “department”, in lines 1734 and 1739, the following words, in each instance:— “or the party petitioning for the order”;

In said section 87, by adding after the word “child.”, in line 1742, the following sentence:— “Any appeal made under this section shall be an interlocutory appeal.”;

In section 92 by striking out in line 1779, the words “knowingly files a frivolous report under this section shall” and inserting in place thereof the following words:— “files a report under this section, knowing such report to be without factual basis, shall”;

In said section 92 by striking out in line 1781, the word “results” and inserting in place thereof the following word:— “resulted”;

In said section 92, by inserting after the word “to”, in said line 1781, the following words:— “or death of”;

In said section 92, by striking out, in line 1778, the word “Whoever” and inserting in place thereof the following words:— “Notwith-standing subsection (h), whoever”;

In said section 93, by striking out lines 1904 to 1915, inclusive, as appearing in the proposed subsection (k) of section 51B of section 119 of the General Laws and inserting in place thereof the following subsection:—

“(k) The department shall notify and shall transmit copies of 51A reports and its written evaluations and written determinations under subsection (a) or (b) to the district attorney for the county in which the child resides and for the county in which the suspected abuse or neglect occurred, and to the local law enforcement authorities in the city or town in which the child resides and in the city or town in which the suspected abuse or neglect occurred when the department has reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect. The department shall immediately report to the district attorney and local law enforcement authorities listed above when early evidence indicates there is reasonable cause to believe that as a result of abuse or neglect 1 of the following events occurred:”; and

By inserting after section 123 the following section:—

“SECTION 123A. Notwithstanding any general or special law to the contrary, the first report filed by the child advocate under section 9 of chapter 18C of the General Laws shall be filed not later than June 30, 2010.”

The amendment was adopted.

The Ways and Means amendment (Senate, No. 2472) was then adopted, as amended.

The bill was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at five minutes past four o'clock P.M., on motion of Ms. Spilka, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 182**]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Moore, Richard T. — 3.
Creem, Cynthia Stone	

The yeas and nays having been completed at eight minutes past four o'clock P.M., the bill was passed to be engrossed, in concurrence with the amendments. [For text of Senate amendments, see Senate, No. 2520, printed as amended.] Sent to the House for concurrence in the amendment.

The Senate Bill further regulating the bidding process on public construction contracts (Senate, No. 1903, amended),— **was considered; and, it was passed to be engrossed. Sent to the House for concurrence.**

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:

The House Bill relative to the charter of the town of Plymouth (House, No. 4267),— was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act further regulating elections in the town of Plymouth”.

Report of a Committee.

By Mr. Augustus, for the committee on Bills in the Third Reading, to whom was referred the amendment recommended by His Excellency the Governor to the engrossed Bill further regulating employee compensation (see Senate, No. 1059) [for message, see Senate, No. 2513],— reported, that the amendment recommended by the Governor be considered in the following form:

In section 1, by adding the following sentence:— “If an employer shows by clear and convincing evidence that the act or omission giving rise to such action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, the court may, in its sound discretion, award no liquidated damages or award any amount not to exceed 3 times the amount of the employee’s lost wages and benefits.”;

In section 2, by adding the following sentence:— “If an employer shows by clear and convincing evidence that the act or omission giving rise to such action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, the court may, in its sound discretion, award no liquidated damages or award any amount not to exceed 3 times the amount of the employee’s lost wages and benefits.”;

In section 3, by adding the following sentence:— “If an employer shows by clear and convincing evidence that the act or omission giving rise to such action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, the court may, in its sound discretion, award no liquidated damages or award any amount not to exceed 3 times the amount of the employee’s lost wages and benefits.”;

In section 4, by adding the following sentence:— “If an employer shows by clear and convincing evidence that the act or omission giving rise to such action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, the court may, in its sound discretion, award no liquidated damages or award any amount not to exceed 3 times the amount of the employee’s lost wages and benefits.”;

In section 5, by adding the following sentence:— “If an employer shows by clear and convincing evidence that the act or omission giving rise to such action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, the court may, in its sound discretion, award no liquidated damages or award any amount not to exceed 3 times the amount of the employee’s lost wages and benefits.”;

In section 6, by adding the following sentence:— “If an employer shows by clear and convincing evidence that the act or omission giving rise to such action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, the court may, in its sound discretion, award no liquidated damages or award any amount not to exceed 3 times the amount of the employee’s lost overtime compensation.”;

In section 7, by adding the following sentence:— “If an employer shows by clear and convincing evidence that the act or omission giving rise to such action was made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, the court may, in its sound discretion, award no liquidated damages or award any amount not to exceed 3 times the amount of the loss of minimum wage.”

The report was accepted.

The Chair (Ms. Menard) stated that under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

After debate, the question on adoption of the Governor’s amendment was determined by a call of the yeas and nays at twenty-three minutes before five o’clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 5 — nays 31*) [**Yeas and Nays No. 183**]:

YEAS.	
Brown, Scott P.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R. — 5.
Knapik, Michael R.	
NAYS.	

Antonioni, Robert A.	Candaras, Gale D.
Augustus, Edward M., Jr.	Chandler, Harriette L.
Baddour, Steven A.	Creedon, Robert S., Jr.
Brewer, Stephen M.	Downing, Benjamin B.
Buoniconti, Stephen J.	Fargo, Susan C.
Galluccio, Anthony D.	Panagiotakos, Steven C.
Hart, John A., Jr.	Petrucelli, Anthony
Jehlen, Patricia D.	Resor, Pamela
Joyce, Brian A.	Rosenberg, Stanley C.
Marzilli, Jim	Spilka, Karen E.
McGee, Thomas M.	Timilty, James E.
Menard, Joan M.	Tolman, Steven A.
Montigny, Mark C.	Tucker, Susan C.
Morrissey, Michael W.	Walsh, Marian
O'Leary, Robert A.	Wilkerson, Dianne — 31.
Pacheco, Marc R.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Moore, Richard T. — 3.
Creem, Cynthia Stone	

**The yeas and nays having been completed at twenty minutes before five o'clock P.M., the Governor's amendment was rejected.
Sent to the House for its action.**

Order Adopted.

On motion of Ms. Fargo,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Thursday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

Moment of Silence.

At the request of the Chair (Ms. Menard), the members, guests and employees stood in a moment of silence and reflection to the memory of Nancy King of Lincoln.

Adjournment in Memory of Nancy King.

The Senator from Middlesex and Norfolk, Ms. Spilka, the Senator from Middlesex, Ms. Fargo and the Senator from Suffolk and Norfolk, Ms. Walsh, requested that when the Senate adjourns today, it adjourn in memory of Nancy King of Lincoln, Massachusetts.

Ms. King became a staff attorney at South Middlesex Legal Services of Framingham in 1977 and was named executive director two years later. Ms. King held that position until her untimely passing on December 18, 2007 at age 59. Ms. King is a graduate of Mount St. Joseph Academy in Brighton, Albertus Magnus College in New Haven, and Boston College Law School in 1972. She is survived by her 3 sisters, 2 brothers and eight nieces and nephews.

Accordingly, as a mark of respect to the memory of Nancy King, at fourteen minutes before five o'clock P.M., on motion of Ms. Walsh, the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.