

HOUSE No. 3881

By Ms. Khan of Newton, petition of Kay Khan and others relative to juvenile mental health and substance abuse. Mental Health and Substance Abuse.

The Commonwealth of Massachusetts

PETITION OF:

Kay Khan	Matthew C. Patrick
David Paul Linsky	Steven J. D'Amico
Timothy J. Toomey, Jr.	Theodore C. Speliotis
Thomas M. Stanley	Susan C. Fargo
Brian A. Joyce	Patricia D. Jehlen
Ruth B. Balsler	Susan C. Tucker
John P. Fresolo	Gloria L. Fox
Alice Hanlon Peisch	Peter V. Kocot
William N. Brownsberger	Elizabeth A. Malia
Mary E. Grant	Carl M. Sciortino, Jr.
Barbara A. L'Italien	

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO JUVENILE MENTAL HEALTH.

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. (a) The department of mental health in collaboration
2 with the department of youth services and the department of public
3 health is hereby authorized and directed to conduct a comprehensive
4 review of the mental health and substance abuse service needs of
5 adolescents in the care of or detained in the Commonwealth through
6 the order of a juvenile court, including without limitation juveniles
7 detained in the department of youth services or in the custody of the
8 department of social services, or receiving services from the depart-
9 ment of mental health, the court clinics, probation, or otherwise, and
10 including without limitation any such departments, offices, agencies
11 or instrumentalities of the Commonwealth, and any private organiza-
12 tions and agencies operating under arrangement with departments or
13 agencies of the Commonwealth. To complete said review, the

14 department of mental health, department of youth services, and
15 department of public health shall solicit input from the office of pro-
16 bation, the department of social services, the department of educa-
17 tion, the juvenile court, juvenile court clinics, the committee for
18 public counsel services, the department of mental retardation, the
19 division of insurance, the division of medical assistance, the Massa-
20 chusetts Association of District Attorneys, at least one individual
21 representing the interests of parents and families, at least one advo-
22 cate for juvenile justice, at least one representative of a service
23 provider community, and at least one representative from the Massa-
24 chusetts Association of Health Plans. Said review shall be for pur-
25 poses of identifying the following:—

26 (i) existing and proposed models of alternatives to detention,
27 within and outside the Commonwealth, of providing mental health
28 and substance abuse services to juveniles in detention, and as alter-
29 natives to detention; community resources and other dependencies
30 which affect the appropriateness and effectiveness of models of
31 alternatives to detention; and data demonstrating the relative effi-
32 cacy, cost-effectiveness, and effect on public safety of alternative
33 models;

34 (ii) unmet mental health and substance abuse needs of juveniles
35 within the juvenile justice systems of the Commonwealth, including
36 an explicit comparison of the best practices and models identified in
37 paragraph (a) of this section with services and models available in
38 the Commonwealth;

39 (iii) recommendations for addressing unmet needs, including
40 without limitation through the court clinics of the juvenile courts,
41 and through contracting by the department of mental health for com-
42 munity-based services through community providers, or through
43 consortia of community providers, local government agencies and
44 others operating in congruence with local courts involved in the
45 juvenile justice system.

46 (b) Within sixty days after the effective date hereof, the depart-
47 ment shall post to its external website, for thirty days public com-
48 ment, a proposed workplan to gather information necessary to
49 prepare the report required by this section, in consultation with clin-
50 ical, philanthropic and advocacy organizations for children, and
51 providers of mental health and substance abuse services for minors.
52 The proposed workplan shall be directed to submit a final report to

53 the legislature and the governor no later than two hundred and
54 seventy days after the effective date of this act.

55 (c) Within ninety days after the effective date of this act, the
56 department shall post its final workplan on its external website.

57 (d) Within two hundred and ten days after the effective date of
58 this act, the department shall post on its external website, for public
59 comment, a draft report responsive to this section.

60 (e) Within two hundred and seventy days after the effective date
61 of this act, the department shall post on its external website a final
62 report responsive to this section, including a summary of all public
63 comments received, and responses to such comments. The depart-
64 ment shall also that day provide a copy of its final report to the gov-
65 ernor, the president of the senate, the speaker of the house of
66 representatives, the chairs of the joint committees on mental health
67 and substance abuse, and children and families, and the legislative
68 mental health caucus.

1 SECTION 2. Chapter 119 of the General Laws as appearing in the
2 2004 Official Edition is hereby amended by inserting, after Section
3 68C, the following section:—

4 Section 68D. (a) Each child referred to the department of mental
5 health pursuant to Section 68A of this chapter shall receive, the same
6 court day, a preliminary screening to make recommendations to the
7 court on matters relevant to the further evaluation of the child under
8 this section, including whether the evaluation ordered by the court
9 under this section may be completed in the community. The subse-
10 quent evaluation shall result in an appropriate and adequate exami-
11 nation by a qualified examiner, sufficient to respond to the referral
12 question from the court and to identify such services as might be
13 required to meet the child's needs. Additionally, if so ordered by the
14 court, substance abuse screening and other relevant and necessary
15 health-related examinations by qualified examiners shall be included
16 in the examination. The department shall within 15 days provide,
17 provided however that the examiner may request the court authorize
18 an additional 15 days before filing the report, an appropriate report
19 of the 68A evaluation to counsel for the child, who shall make the
20 determination whether or not to share the report, which may contain
21 sensitive and confidential information, with the Court. Evaluation
22 under this section shall require consent of the child's parent or legal

23 guardian. Where a child may otherwise be detained in the depart-
24 ment of youth services for this examination, the court may order the
25 examination in a less restrictive setting, on condition that the child
26 participate in the examination and in receiving such services consis-
27 tent with the recommendation of the department. The court may con-
28 sider this report in determining the appropriate interim disposition of
29 the child under Section 68 of this chapter. On motion of counsel for
30 the child, or in the court's own discretion, the court may, in lieu of
31 detention or a more restrictive alternative commitment, refer the
32 child to the department for purposes of receipt of such services, sub-
33 ject to the child's substantial compliance with the terms of the
34 department's recommended mental health services and the court's
35 order. The purpose of this screening, evaluation, and service delivery
36 system is to assure the appropriate use of detention and to provide
37 the Court a method for assuring that children and youth with mental
38 health issues may be safely maintained in their communities during
39 the pendency of their delinquency and Youthful Offender cases. No
40 information contained in the report or obtained during the screen-
41 ings, evaluation, or delivery of detention alternative services may be
42 used in any way during the adjudication or disposition of a delin-
43 quency, Youthful Offender, or criminal case unless first introduced
44 by the defendant.

45 (b) The department, or a qualified provider of mental health diag-
46 nostic and treatment services acting under arrangement with the
47 department pursuant to Section 2A of Chapter 123 the General
48 Laws, shall, within twenty-four hours of receipt of assignment (in
49 the case of outpatient services) or physical custody (in the case of
50 inpatient services) of the child, formulate and begin to implement a
51 sufficient and appropriate mental health services treatment plan,
52 including the coordination of appropriate qualified providers through
53 a designated case manager or other appropriate service delivery
54 mechanism, and services targeted to address the child's mental
55 health and substance abuse service needs.

56 Nothing in this chapter shall preempt the requirements of Section
57 58 of Chapter 276.

1 SECTION 3. Chapter 123 of the General Laws as so appearing is
2 hereby amended by inserting after Section 16 the following
3 section:—

4 16A. Alternatives to detention for minors in juvenile justice pro-
5 ceedings

6 (a) Within amounts appropriated therefore, the department shall
7 contract with eligible providers of mental health services for provi-
8 sion of adequate and effective mental health and substance abuse
9 services for minors referred for evaluation and services pursuant to
10 Sections 68D of Chapter 119 of the General Laws, for whom the
11 provision of mental health and substance abuse services, delivered in
12 a timely and appropriate manner in an outpatient or inpatient setting,
13 would ameliorate mental health or substance abuse needs and, as
14 ordered by the court, dispense with the need for detention in a
15 facility under the direction of the department of youth services or
16 otherwise.

17 (b) For purposes of this section, “eligible providers” shall mean
18 appropriately qualified residential and non-residential providers of
19 pediatric mental health services; local government mental health
20 agencies or authorities; or local or regional consortia of such
21 providers, agencies or authorities, operating within cooperative
22 arrangements with, as the case may be, local offices of probation,
23 law enforcement, community health organizations, or public health
24 agencies, and court-associated clinic services. Such consortia may
25 allocate diagnostic and therapeutic services among them in a locally
26 or regionally appropriate and effective manner, provided that the
27 evaluation and services for a given minor will be managed by a con-
28 tinuously dedicated case manager and, in the department’s judgment,
29 that the networked allocation of evaluation and services will be as or
30 more effective than competing applications for the same region or
31 locality. Eligible providers shall also be equipped to provide acad-
32 emic and recreational services as necessary and appropriate for the
33 service needs of youth referred to them. Eligibility criteria for serv-
34 ices shall be established by the department of mental health in con-
35 sultation with the Juvenile Mental and Behavioral Health
36 Coordinating Committee, established by this section.

37 (c) The department shall engage sufficient numbers of qualified
38 providers, sufficiently distributed within the state, to timely meet the
39 mental health service needs of minors referred by the court for eval-
40 uation, assessment, and services pursuant to Section 68D of Chapter
41 119 of the General Laws.

42 (d) To implement the requirements of this section, the department
43 shall within 60 days after the effective date of this act, and within 60
44 days after the effective date of any subsequent appropriation directed
45 to this purpose in any fiscal year other than appropriations directed
46 to the continuation of previous contracts, issue and disseminate,
47 including posting on its external website, a draft request for informa-
48 tion, or request for proposals as the case may be, for public com-
49 ment. Thirty days thereafter, the department shall close the public
50 comment period, and no later than ninety days thereafter issue a
51 request for information or proposals, as the case may be, soliciting
52 contracting proposals under this section. Before issuing the draft
53 request for information, or proposals as the case may be, the depart-
54 ment shall consult with and seek comment from pertinent depart-
55 ments of the Commonwealth, and pertinent providers, agencies,
56 authorities and associations involved with the provision of pediatric
57 mental health and substance abuse services, or the juvenile justice
58 system, or advocacy for children, including at least the following,
59 which the department shall seek to assemble and constitute in a con-
60 tinuing advisory capacity denominated the juvenile mental and
61 behavioral health coordinating committee:— the chief of probation,
62 the chief justice of the juvenile court, the commissioner of public
63 health, the commissioner of social services, the commissioner of
64 youth services, the commissioner of education, the commissioner of
65 early education, the commissioner of mental retardation, the com-
66 missioner of insurance, the director of the division of medical assis-
67 tance, one representative of court clinic services, one representative
68 from the committee for public counsel services, one representative
69 from the Massachusetts Association of District Attorneys, one indi-
70 vidual representing the interests of parents and families, one advo-
71 cate for juvenile justice, one representative of the service provider
72 community, and one representative from the Massachusetts Associa-
73 tion of Health Plans.

74 (e) Proposals shall be solicited and evaluated by the department
75 based on the criteria established in consultation with the juvenile
76 mental and behavioral health coordinating committee. Successful
77 applicants shall be required to have demonstrated that they will
78 timely provide appropriate mental health and substance abuse serv-
79 ices that, based on data submitted with their proposal, are reasonably
80 anticipated to reduce the necessity of detention in facilities operated

81 by or under the authority of the division of youth services through
82 diagnosis and treatment of the minors' mental health and substance
83 service needs. Proposals shall address all matters required under
84 Section 68D of Chapter 119 of the General Laws. The department
85 shall also require applicants to identify the extent to which they have
86 provided for local input from and coordination with local and
87 regional government agencies and authorities, community organiza-
88 tions, and philanthropic organizations concerned with mental health
89 services for minors, and community safety.

90 (f) The department shall annually report to the governor, the pres-
91 ident of the senate, the speaker of the house of representatives, the
92 joint committee on mental health and substance abuse, the joint
93 committee on children and families and the legislative mental health
94 caucus on its compliance with this section, including the extent to
95 which actions taken by the department, or contractors under this
96 section, have failed to comply with the requirements of this section,
97 and have not addressed all needs for such mental health and sub-
98 stance abuse services. The report shall also include the department's
99 efforts to demonstrate the effectiveness of such programs on
100 reducing detention in other facilities in the Commonwealth not
101 under the jurisdiction of the department while maintaining the public
102 safety. The report shall further include the impact that the implemen-
103 tation of Section 68D has on the department's other responsibilities
104 with regard to forensic mental health services, including but not lim-
105 ited to the impact on the juvenile court clinics, and the impact of said
106 implementation on the daily census of detained youth in the depart-
107 ment of youth services. The report shall be publicly available, and
108 shall be posted by the department on its external website.

1 SECTION 4. This act shall take effect immediately upon passage.