

**HOUSE . . . . . No. 4191**

By Mr. DiMasi of Boston, petition of Salvatore F. DiMasi and others relative to child abuse and neglect. Children, Families and Persons with Disabilities.

**The Commonwealth of Massachusetts**

PETITION OF:

Salvatore F. DiMasi	Donald F. Humason, Jr.
John H. Rogers	Ruth B. Balsler
Marie P. St. Fleur	Patricia A. Haddad
Lida E. Harkins	Cheryl A. Coakley-Rivera
Geoffrey D. Hall	James J. O’Day
Elizabeth A. Malia	Peter J. Koutoujian
Stephen P. LeDuc	Elizabeth A. Poirier
Paul J. Donato	John A. Lepper

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO CHILD ABUSE AND NEGLECT.

*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. Section 17 of Chapter 6 of the General Laws, as  
2 appearing in the 2006 Official Edition, is hereby amended by  
3 inserting after the word “board”, in line 21, the following words:— ,  
4 the board on child abuse and neglect.

1 SECTION 2. Said Chapter 6 is hereby further amended by  
2 striking out Section 17A, as amended by Section 1 of Chapter 19 of  
3 the acts of 2007, and inserting in place thereof the following  
4 section:—  
5 Section 17A. There shall be a cabinet, which shall serve under the  
6 governor. The cabinet shall consist of the secretary of administration  
7 and finance, the secretary of child welfare, the secretary of elder  
8 affairs, the secretary of energy and environmental affairs, the secre-  
9 tary of health and human services, the secretary of housing and eco-  
10 nomic development, the secretary of labor and workforce

11 development, the secretary of public safety and security, the secre-  
12 tary of transportation and public works, and other officers of the  
13 executive department that the governor may from time to time desig-  
14 nate.

1 SECTION 3. Section 81 of said Chapter 6, as so appearing, is  
2 hereby amended by striking out, in line 4, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 4. Section 105 of said Chapter 6, as so appearing, is  
2 hereby amended by striking out, in line 14, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 5. Section 172B of said Chapter 6, as so appearing, is  
2 hereby amended by striking out, in lines 3 and 8, the words “social  
3 services” and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 6. Section 178K of said Chapter 6, as so appearing, is  
2 hereby amended by striking out, in line 112, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 7. Section 189 of said Chapter 6, as so appearing, is  
2 hereby amended by striking out, in line 5, the words “social serv-  
3 ices” and inserting in place thereof the following words— children  
4 and families.

1 SECTION 8. Said Chapter 6 is hereby further amended by  
2 striking out Section 202, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 202. There is hereby established a child abuse prevention  
5 board, in this section and in Section 203 referred to as the board,  
6 which shall consist of between 25 and 50 members, including (a) the  
7 following 10 ex-officio members:— the secretary of child welfare or  
8 a designee, the secretary of health and human services or a designee;  
9 the secretary of housing and economic development or a designee,

10 the commissioner of early education and care or a designee, the  
11 commissioner of children and families or a designee, the commis-  
12 sioner of mental health or a designee, the commissioner of youth  
13 services or a designee, the commissioner of education or a designee,  
14 the commissioner of public health or a designee, the commissioner  
15 of transitional assistance or a designee, (b) the following 12 persons  
16 from the private sector appointed by the governor from recommen-  
17 dations by the board:— 1 parent, 1 pediatrician, 1 child psychiatrist,  
18 1 early childhood education specialist, 1 mental health specialist in  
19 child abuse, 1 district attorney, 1 teacher, 1 judge, 1 member of the  
20 Massachusetts bar, 1 criminal justice professional, 1 social worker  
21 from a private child welfare agency and 1 representative of a private  
22 charitable foundation, and (c) between 3 and 28 additional members  
23 appointed by the governor from recommendations by the board.  
24 These individuals shall be appointed based upon their knowledge of  
25 and interest in child abuse prevention. The governor shall seek to  
26 provide diverse geographical representation, with particular attention  
27 given to appointing members who reflect the ethnic and racial diver-  
28 sity of the Commonwealth's children, youth and families, and shall  
29 assure that each of the Commonwealth's 6 human service regions,  
30 established by the executive office of health and human services, is  
31 represented by 1 of the appointments.

32 Each appointed member of the board shall serve for a term of 3  
33 years. A vacancy in an unexpired term shall be filled in the same  
34 manner as an original appointment. Any member shall be eligible for  
35 reappointment.

36 The governor shall designate a chairman from among 1 of the  
37 appointed members of the board. The board may elect other officers  
38 and committees as it deems appropriate.

39 The board shall employ an executive director, assistant executive  
40 director, secretary, and any other staff the board deems necessary in  
41 order to carry out the duties and responsibilities assigned to the  
42 board. Expenditures for salaries and for other administrative func-  
43 tions shall be approved by the board within the limitations pre-  
44 scribed by Section 50 of Chapter 10.

45 The executive director shall have at least 2 years of direct service  
46 experience in child welfare or child clinical work and 2 years of  
47 experience in human service administration or policy making and  
48 shall have a master's degree in a related field.

49 The executive director shall be selected from applicants who have  
50 been screened and recommended by a 5-member subcommittee of  
51 the board, consisting of the chairman, the commissioner of children  
52 and families, the commissioner of early education and care, and 2  
53 appointed members, and shall require approval by majority vote of  
54 the entire board and approval by the governor. The executive  
55 director shall be accountable to the board at large.

56 Any member of the board or its executive director may be  
57 removed by the governor for willful misconduct or neglect of duty,  
58 for inability to perform the powers and duties of the board, or for  
59 improprieties under law.

60 Notwithstanding any general or special law to the contrary, the  
61 office of children, youth and family services within the executive  
62 office of health and human services shall facilitate the implementa-  
63 tion of this section and Section 203 and of the Children's Trust Fund,  
64 established by Section 50 of Chapter 10, but the office shall not  
65 exercise any supervision or control of the board.

1 SECTION 9. The second paragraph of Section 203 of said  
2 Chapter 6, as so appearing, is hereby amended by striking out clause  
3 (10) and inserting in place thereof the following clause:—

4 (10) to serve as an advocate, subject to appropriation, and provide  
5 an articulate focus for the needs of children and disseminate infor-  
6 mation to the public regarding children's services and to work in col-  
7 laboration with the secretary of child welfare and board on child  
8 abuse and neglect, the department of early education and care, the  
9 department of public health, the department of children and families,  
10 the department of education and any other state agency which serves  
11 the needs of children to promote the development of programs and  
12 services for all children, emphasizing programs for children with  
13 special needs.

1 SECTION 10. Section 16 of Chapter 6A of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 26, the  
3 words "social services" and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 11. Section 17 of Chapter 11 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 5 and 16,

3 the words “social services” and inserting in place thereof, in each  
4 instance, the following words:— children and families.

1 SECTION 12. Section 20D of Chapter 12 of the General Laws, as  
2 so appearing, is hereby amended by adding the following para-  
3 graph:—

4 The executive director shall annually report the status of child  
5 abuse and neglect cases that have been referred for criminal prosecu-  
6 tion, including how many are prosecuted, the results of those prose-  
7 cutions, and the rationale for decisions not to prosecute. The report  
8 shall be filed with the clerks of the house and the senate, the house  
9 and senate committees on ways and means, the committee on chil-  
10 dren, families and persons with disabilities, the committee on the  
11 judiciary, the speaker of the house, the president of the senate and  
12 the governor.

1 SECTION 13. Section 32 of said Chapter 12, as so appearing, is  
2 hereby amended by striking out, in lines 7 and 8, the words “social  
3 services” and inserting in place thereof the following words:— chil-  
4 dren and families.

1 SECTION 14. Section 1G of Chapter 15 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 54, the  
3 words “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 15. Section 54 of said Chapter 15, as so appearing, is  
2 hereby amended by striking out, in line 73, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 16. Section 19 of Chapter 15A of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 48 and 50,  
3 the words “social services” and inserting in place thereof, in each  
4 instance, the following words:— children and families.

1 SECTION 17. Section 14 of Chapter 17 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 7, the words

3 “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 18. Section 28 of Chapter 18 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 16, the  
3 words “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 19. Section 1 of Chapter 18B of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 1, the words  
3 “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 20. Said Chapter 18B is hereby further amended by  
2 striking out Section 2, as so appearing, and inserting in place thereof  
3 the following section:—

4 Section 2. The department shall provide and administer a compre-  
5 hensive child welfare program for children and families, including  
6 the following services—

7 (1) casework or counseling including services to families, foster  
8 families or individuals;

9 (2) protective services for children, unmarried mothers, the aging  
10 and other adults;

11 (3) legal services for families, children or individuals who are  
12 clients of the department;

13 (4) foster family care and specialized foster family care for chil-  
14 dren, the aging, the disabled and the handicapped;

15 (5) adoption services;

16 (6) homemaker services;

17 (7) day care facilities and services for children, the aging, the dis-  
18 abled and the handicapped;

19 (8) residential care for children with special needs or aging per-  
20 sons not suited to foster family care, or specialized foster family  
21 care;

22 (9) informal education and group activities as needed for families,  
23 children, the aging, the disabled and the handicapped;

24 (10) training in parenthood and home management for parents,  
25 foster parents and prospective parents;

- 26 (11) services for newcomers to an area or community to assist in  
27 adjustment to a new environment and new resources;
- 28 (12) camping services;
- 29 (13) family services intended to prevent the need for foster care  
30 and services to children in foster care;
- 31 (14) temporary residential programs providing counseling and  
32 supportive assistance for women in transition and their children who  
33 because of domestic violence, homelessness, or other situations  
34 require temporary shelter and assistance;
- 35 (15) information and referral services; and
- 36 (16) services for families and individuals in emergency and transi-  
37 tional housing.

1 SECTION 21. Said Chapter 18B is hereby further amended by  
2 striking out Section 3, as so appearing, and inserting in place thereof  
3 the following section:—Section 3. (a) The department shall provide  
4 comprehensive, area-based child welfare services. These services  
5 shall be organized by regions and areas consistent with those estab-  
6 lished by the secretary of health and human services as provided in  
7 Section 16 of Chapter 6A.

8 (b) In order that the area-based services be adapted, organized and  
9 coordinated to meet the needs of certain population groups, the  
10 department shall provide programs for:—

11 (1) families, children and unmarried parents, which program  
12 shall, among other objectives, serve to assist, strengthen and  
13 encourage family life for the protection and care of children, assist  
14 and encourage the use by any family of all available resources to this  
15 end, and provide substitute care of children only when preventive  
16 services have failed and the family itself or the resources needed and  
17 provided to the family are unable to insure the integrity of the family  
18 and the necessary care and protection to guarantee the rights of any  
19 child to sound health and normal physical, mental, spiritual and  
20 moral development.

21 (2) the aging and other adults in need of social, legal, health, reha-  
22 bilitation, employment, or other services.

23 (3) other population groups which require special adaptation of  
24 the services provided because of special needs.

25 (c) The department shall:—

26 (1) formulate the policies, procedures and rules necessary for the  
27 full and efficient implementation of programs authorized by the laws  
28 of the Commonwealth and federal laws in the area of services for  
29 children and families;

30 (2) administer the services, funds and personnel necessary for  
31 these programs throughout the Commonwealth;

32 (3) establish and enforce high standards of service and strive to  
33 elevate such standards;

34 (4) provide the range of services on a fair, just and equitable basis  
35 to all people in need of such services;

36 (5) collaborate with other departments of the Commonwealth and  
37 with voluntary or private agencies or organizations to assure effi-  
38 cient and high-quality social and educational services for persons  
39 who are unable for social or economic reasons to provide such serv-  
40 ices for themselves;

41 (6) study the social and economic problems in the Common-  
42 wealth, and make recommendations to the appropriate branches and  
43 agencies of government, including the secretary of child welfare  
44 established by Section 2 of Chapter 18C, for broadening and  
45 improving the scope and quality of child welfare services.

1 SECTION 22. Section 6 of said Chapter 18B, as so appearing, is  
2 hereby amended by striking out, in line 2, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 23. Said Section 6 of said Chapter 18B, as so  
2 appearing, is hereby further amended by striking out the third sen-  
3 tence and inserting in place thereof the following sentence:— The  
4 position of commissioner shall be classified under Section 45 of  
6 Chapter 30 and the salary shall be determined under Section 46C of  
7 said Chapter 30 and said commissioner shall devote full time to the  
8 duties of the office.

1 SECTION 24. Section 6A of said Chapter 18B, as so appearing, is  
2 hereby amended by striking out, in line 1, the words “of social serv-  
3 ices”.

1 SECTION 25. Said Section 6A of said Chapter 18B, as so  
2 appearing, is hereby further amended by striking out, in line 42, the  
3 words “thirty A” and inserting in place thereof the following  
4 word:— 30A.

1 SECTION 26. Said Chapter 18B is hereby further amended by  
2 striking out Section 7, as so appearing, and inserting in place thereof  
3 the following section:—

4 Section 7. (a) The commissioner shall establish reasonable case-  
5 load rates and shall report these caseload rates to the general court in  
6 the budget estimates of the department.

7 (b) The commissioner shall develop and implement a manage-  
8 ment information system that shall contain fiscal and personnel data,  
9 client data, and program data necessary for the ongoing administra-  
10 tion or effective service delivery. The information system shall  
11 include, but not be limited to, a service plan for each client, with  
12 provisions for periodic review thereof. The commissioner shall pro-  
13 mulgate such rules and regulations as are deemed necessary to  
14 ensure the confidentiality of client data collected by the department.

15 (c) The commissioner shall develop and implement a comprehen-  
16 sive monitoring and evaluation system for all services under the con-  
17 trol of the department and shall collect the necessary program and  
18 fiscal data annually.

19 (d) The commissioner shall conduct an annual needs assessment  
20 for all services under the control of the department.

21 (e) The commissioner shall report annually to the general court on  
22 all services, including program and client data and unit costs, and  
23 shall report semi-annually on high-risk children, racial disproport-  
24 ionality and disparity, and service procurement pursuant to Section  
25 23.

26 (f) The commissioner shall develop and implement a plan for the  
27 orientation and training of area-based and other staff.

28 (g) The commissioner shall coordinate the overall service plan-  
29 ning of the department with planning under Title XX of the Social  
30 Security Act, 42 U.S.C. §1397 et seq.

31 (h) The commissioner shall be authorized to apply for and accept  
32 on behalf of the Commonwealth federal, local or private grants,  
33 bequests, gifts or contributions.

34 (i) The commissioner, subject to Chapter 30A, shall promulgate  
35 such rules and regulations necessary to carry out this chapter and  
36 may amend or repeal the same.

37 (j) The commissioner shall include in the budget estimates of the  
38 department funds for the development and implementation of the  
39 aforementioned management information system, monitoring and  
40 evaluation system, annual needs assessment, and staff training plan.

41 (k) The commissioner shall, subject to appropriation, enter into  
42 contracts with nonprofit organizations to provide services for fami-  
43 lies and individuals in emergency and transitional housing; provided,  
44 that the department, in entering into such contracts, shall provide 3  
45 dollars for each dollar of donated funds which have been committed  
46 to such nonprofit organizations from any nonstate source. For the  
47 purposes of this subsection, a nonstate source may include private  
48 donations or monies from city, town or county governments but shall  
49 not include funds from other state agencies.

50 (l) Prior to undertaking any activity or implementing any policy  
51 which would affect expenditures for medical assistance under  
52 Chapter 118E, including, but not limited to, identifying individuals  
53 eligible for such assistance under said chapter, the commissioner  
54 shall assure that such activity or policy is reviewed by the director of  
55 Medicaid.

56 Not more than 3 per cent of the department's annual budget shall  
57 be appropriated in a separate account and expended for the purposes  
58 set out in subsections (b), (c), and (d), of this section.

1 SECTION 27. Section 8 of said Chapter 18B, as so appearing, is  
2 hereby amended by striking out the second sentence and inserting in  
3 place thereof the following sentence:—

4 The position of deputy commissioner shall be classified under  
5 Section 45 of Chapter 30 and the salary shall be determined under  
6 Section 46C of said Chapter 30.

1 SECTION 28. The second paragraph of Section 9 of said Chapter  
2 18B, as so appearing, is hereby amended by striking out the last sen-  
3 tence and inserting in place thereof the following 2 sentences:—

4 The position of assistant commissioner shall be classified under  
5 Section 45 of Chapter 30 and the salary shall be determined under

6 Section 46C of said Chapter 30. Assistant commissioners shall  
7 devote full time to the duties of the office.

1 SECTION 29. Section 12 of said Chapter 18B, as so appearing, is  
2 hereby amended by striking out the first paragraph and inserting in  
3 place thereof the following paragraph:—

4 The commissioner, with the advice of the area board, shall  
5 appoint an area director in each area, and, subject to appropriation,  
6 such other employees as the commissioner may deem necessary.

1 SECTION 30. Said Section 12 of said Chapter 18B, as so  
2 appearing, is hereby amended by striking out the fifth and sixth para-  
3 graphs and inserting in place thereof the following 3 paragraphs:—

4 The area director shall also prepare and submit to the commis-  
5 sioner the proposed annual budget for the area for programs to be  
6 supported at the area level. The commissioner shall make such revi-  
7 sions as shall be necessary and shall include said area budgets as part  
8 of the departmental budget requests submitted annually under Sec-  
9 tions 27 and 28 of Chapter 29. A copy of the area budget as included  
10 with said departmental requests shall be forwarded by the commis-  
11 sioner to each area director for the information of the area board.

12 The area director, subject to the overall supervision of the com-  
13 missioner, shall supervise all employees within the area and shall be  
14 responsible for the administration of the area budget and the imple-  
15 mentation of the area plan.

16 All social workers shall have bachelors' degree at the time of  
17 appointment. All supervisory social workers shall have masters'  
18 degree in social work or a related field at the time of appointment.

1 SECTION 31. Said Chapter 18B is hereby further amended by  
2 striking out Section 13, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 13. In each area established under Section 3, there shall  
5 be a children and families area board, in this chapter called the area  
6 board, which shall be an agency of the Commonwealth and shall  
7 serve in the department. The area board shall consist of 21 members,  
8 who shall be appointed by the commissioner for terms of 3 years.  
9 Two-thirds of the members shall live within the area for which they  
10 are appointed, and the remaining members shall either live or work

11 in the area. At least 6 members shall be consumers of services pro-  
12 vided by the department. Not more than 2 members shall be selected  
13 from private providers within the area. One member at the time of  
14 appointment shall be a member of the community mental health area  
15 board established under Section 14 of Chapter 19, 1 member at the  
16 time of appointment shall be a person knowledgeable in the field of  
17 mental retardation, 2 members at the time of their appointment shall  
18 be members of the local councils for children established under  
19 Section 7 of Chapter 28A, 2 members at the time of their appoint-  
20 ment shall be members of the financial or business professions with  
21 special fiscal or budgetary skills, and 2 members shall at the time of  
22 their appointment be members of the community service area boards  
23 established under Section 7 of Chapter 18.

24 The commissioner shall include at least 1 member from each city  
25 and if practicable each town in the area, and shall seek to provide  
26 proper geographical representation in the membership of the board.  
27 Two-thirds of such members shall be persons other than employees  
28 of the Commonwealth or its political subdivisions. No member shall  
29 be an employee of the department.

30 Upon the expiration of the term of any member, his successor  
31 shall be appointed, in like manner, for a term of 3 years. In the event  
32 of a vacancy, the commissioner may, in like manner, appoint a  
33 member who shall serve for the remainder of the unexpired term.  
34 Members shall serve without compensation, and shall be sworn to  
35 the faithful performance of their duties. The area board shall suggest  
36 for consideration by the commissioner 1 or more names for each  
37 such expiring term or vacancy. No member shall be appointed for  
38 more than 3 consecutive 3-year terms.

1 SECTION 32. Section 14 of said Chapter 18B, as so appearing, is  
2 hereby amended by striking out, in lines 7, 10 and 15, the word  
3 “thirteen” and inserting in place thereof, in each instance, the  
4 following figure:— 13.

1 SECTION 33. Section 15 of said Chapter 18B, as so appearing, is  
2 hereby amended by inserting after the word “services”, in lines 5 and  
3 13, the following words:— for children and families.

1 SECTION 34. Section 16 of said Chapter 18B, as so appearing, is  
2 hereby amended by inserting after the word “services”, in line 5, the  
3 following words:— for children and families.

1 SECTION 35. Said Chapter 18B is hereby further amended by  
2 striking out Section 17, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 17. The department may establish child welfare centers in  
5 any facility owned or rented by the Commonwealth other than state  
6 schools, hospitals or prisons, in any area if space is available or suit-  
7 able for the purpose and shall, if feasible, locate such centers in a  
8 facility utilized by an agency of the Commonwealth providing  
9 human services. If suitable space is not available the department  
10 may acquire adequate space for such centers by renting, leasing or  
11 other available means. Each area shall be responsible for the  
12 delivery of services within its area. The centers shall be of sufficient  
13 number and so located as to be readily accessible to the people  
14 throughout the Commonwealth.

1 SECTION 36. Said Chapter 18B is hereby amended by striking  
2 out Section 20, as so appearing, and inserting in place thereof the  
3 following section:—

4 Section 20. Notwithstanding Section 22 of Chapter 29 or any  
5 other law, funds made available by appropriation or otherwise for  
6 enabling the department to carry out the provisions of this chapter  
7 may be advanced to the department in such sums and subject to such  
8 rules and regulations as the comptroller may determine. The depart-  
9 ment shall make a monthly report to the comptroller of the amount  
10 of funds disbursed by the department subsequent to the previous  
11 monthly report and shall certify to the comptroller that such dis-  
12 bursements are substantiated by detailed records and vouchers  
13 retained in the custody of the department.

1 SECTION 37. Section 22 of said Chapter 18B, as so appearing, is  
2 hereby amended by striking out, in lines 11 and 12 and in lines 41  
3 and 46, the words “public welfare” and inserting in place thereof, in  
4 each instance, the following words:— transitional assistance.

1 SECTION 38. Said Chapter 18B is hereby amended by adding the  
2 following section:—

3 Section 23. The commissioner shall report semi-annually on the  
4 status of high-risk children and its efforts to identify such children  
5 and address their needs for child protection. The report shall be filed  
6 with the clerks of the house and the senate, the house and senate  
7 committees on ways and means, the committee on children, families  
8 and persons with disabilities, the speaker of the house, the president  
9 of the senate and the governor.

10 The commissioner shall report semi-annually on the status of  
11 racial disproportionality and disparity of its client population and its  
12 efforts, including the use of culturally competent staffing, resources  
13 and practices, to reduce overrepresentation of children of color in the  
14 child welfare system. The report shall be filed with the clerks of the  
15 house and the senate, the house and senate committees on ways and  
16 means, the committee on children, families and persons with disabili-  
17 ties, the speaker of the house, the president of the senate and the  
18 governor.

19 The commissioner shall report semi-annually on the status of its  
20 procurement of services, including so-called Family Networks and  
21 lead agencies. At a minimum, the report shall address accountability,  
22 and the cost, quantity and quality of services provided. The report  
23 shall be filed with the clerks of the house and the senate, the house  
24 and senate committees on ways and means, the committee on chil-  
25 dren, families and persons with disabilities, the speaker of the house,  
26 the president of the senate and the governor.

1 SECTION 39. The General Laws are hereby amended by  
2 inserting after Chapter 18B the following chapter:—

3 **CHAPTER 18C.**  
4 **CHILD WELFARE AND PROTECTION.**

5 Section 1. As used in this chapter, the following words shall have  
6 the following meanings, unless the context clearly requires other-  
7 wise:—

8 “Board”, the board on child abuse and neglect, established by  
9 Section 3.

10 “Department”, the department of children and families, estab-  
11 lished by Chapter 18B.

12 “Secretary”, the secretary of child welfare, established by Section  
13 2.

14 Section 2. A secretary of child welfare shall be appointed by and  
15 serve at the pleasure of the governor.

16 Section 3. There shall be a 19-member board on child abuse and  
17 neglect that shall advise the secretary of child welfare.

18 The board shall consist of the secretary of child welfare, who  
19 shall serve as chair of the board, the executive director of the crim-  
20 inal history systems board, the undersecretary of criminal justice  
21 from the executive office of public safety, the commissioner of early  
22 education and care, the commissioner of education, the commis-  
23 sioner of mental health, the commissioner of mental retardation, the  
24 commissioner of public health, the commissioner of children and  
25 families, the commissioner of transitional assistance, the commis-  
26 sioner of youth services, the deputy commissioner of the child sup-  
27 port enforcement division within the department of revenue, the  
28 president of the Massachusetts district attorneys association, the  
29 commissioner of probation, the chief justice of the juvenile court  
30 department, the chief justice of the probate and family court depart-  
31 ment, the executive director of the child abuse prevention board, and  
32 2 persons appointed by the governor.

33 Section 4. The secretary, in consultation with the board, shall  
34 assess the Commonwealth’s long-term, system-wide needs for the  
35 prevention, detection and prosecution of child abuse and neglect and  
36 shall coordinate and integrate responses across state agencies. The  
37 secretary shall identify existing and potential resources, structural  
38 strengths and weaknesses, overlapping or conflicting efforts, and  
39 opportunities for coordinated responses to child welfare issues. The  
40 secretary shall facilitate information sharing and policy synchroniza-  
41 tion among federal, state and local entities.

42 Section 5. The secretary, in consultation with the board, shall for-  
43 mulate a comprehensive plan, with periodic benchmarks and cost  
44 estimates, for a coordinated, system-wide response to child abuse  
45 and neglect, including related mental health, substance abuse and  
46 domestic violence issues. The comprehensive plan shall look for-  
47 ward 5 years or more, shall be updated annually to plan for the  
48 ensuing 5-year period, shall assess previous efforts and, if appro-

49 priate, shall include legislative recommendations, such as changes to  
50 the parameters of the comprehensive plan.

51 The plan shall be filed annually with the clerks of the house and  
52 the senate, the house and senate committees on ways and means, the  
53 committee on children, families and persons with disabilities, the  
54 speaker of the house, the president of the senate and the governor.

55 The plan shall examine the status of and address the following  
56 issues:—

57 (1) Racial disproportionality and disparity of the client population  
58 of the department of children and families, including the effective-  
59 ness of reforms designed to address overrepresentation of children of  
60 color within the department's client population;

61 (2) Mandated reporting, including (i) the quality and quantity of  
62 training provided to mandated reporters, (ii) standards for training  
63 based on best practices for recognizing and reporting suspected child  
64 abuse and neglect, (iii) the use of existing programs of professional  
65 training such as continuing education programs or in-service  
66 training, online programs, and training offered by state agencies, and  
67 (iv) the value of mandatory testing of mandated reporters;

68 (3) Screening of child abuse and neglect reports, including (i) the  
69 efficiencies of centralizing the reporting and screening processes, (ii)  
70 the use of a single, 24-hour, toll-free telephone number for all oral  
71 reports of child abuse or neglect, the use of a single fax number or  
72 mailing address for all written reports of child abuse or neglect, the  
73 use of Internet-based filing of reports of child abuse or neglect, (iii)  
74 the examination of multiple reports filed about a particular child or a  
75 particular family, (iv) the examination of reports that are screened  
76 out to determine when and under what conditions they may have  
77 been inappropriately screened out and the impact of such inappro-  
78 priate screen outs, and (v) the use of direct, electronic access to the  
79 National Crime Information Center for criminal history records and  
80 warrants;

81 (4) Child protection teams, which are multidisciplinary teams that  
82 provide specialized medical examinations of children who present  
83 signs of abuse or neglect and that include pediatricians or pediatric  
84 nurses and psychologists or social workers who have been trained to  
85 recognize child abuse and neglect, including statewide expansion of  
86 these teams at regional hospitals, at all hospitals with emergency  
87 rooms, and at all pediatric care hospitals;

88 (5) Family engagement model, including coordination with the  
89 department of children and families for (i) the evaluation of the  
90 model and its use of differential response and risk assessment tools  
91 to determine how effectively findings of abuse or neglect are made,  
92 (ii) an estimation of the cost to implement the model statewide, (iii)  
93 an examination of the combination of departmental functions such  
94 that an individual social worker investigates, assesses and provides  
95 ongoing case management, particularly as that combination impacts  
96 incidents requiring specialized investigatory skills, (iv) an examina-  
97 tion of delays in the fair hearing process, and (v) periodic examina-  
98 tion of time limits allowed for screenings, investigations and  
99 assessments;

100 (6) Caseloads and teaming, including coordination with the  
101 department of children and families for (i) an examination of the  
102 effects of teaming on caseloads and of caseloads on teaming, (ii) an  
103 estimation of the cost of statewide adoption of various standard case-  
104 load ratios, (iii) the development of a potential multi-year plan to  
105 reduce caseloads, and (iv) an examination of duties handled by  
106 social workers that may be more affordably and efficiently handled  
107 by other staff;

108 (7) Law enforcement involvement, including the coordination  
109 with the department of children and families and law enforcement  
110 for (i) an investigation of how effectively the department and law  
111 enforcement collaborate, and where there is room for improvement  
112 or coordination of resources, (ii) the development of protocols for  
113 mandatory reporting of physical abuse to local law enforcement and  
114 district attorneys and (iii) the potential alignment with efforts to pre-  
115 vent or prosecute domestic violence and with the procedures used in  
116 the investigation of sexual abuse, such as the sexual abuse interven-  
117 tion network and the sexual assault nurse examiners program;

118 (8) Schools of social work, including (i) an examination of how  
119 effectively social work and related degree programs teach child wel-  
120 fare practice, (ii) an examination of opportunities for greater cooper-  
121 ation between the department of children and families and higher  
122 education to study child welfare issues, (iii) a determination of the  
123 capacity of public and private schools to meet increased demand for  
124 social work and related degrees, including concentrations in child  
125 welfare, and (iv) the establishment of a timeline for inclusion of

126 child welfare concentrations in bachelors' and masters' degree pro-  
127 grams at public institutions of higher education;

128 (9) Social worker qualifications, including an examination of the  
129 infrastructure needed to support a more qualified workforce, such as  
130 full implementation of proposed programs at the child welfare insti-  
131 tute and the transferability of certificate coursework to other grad-  
132 uate programs;

133 (10) Confidentiality, including research of legal and ethical con-  
134 siderations to be addressed if information sharing in cases of child  
135 abuse and neglect is expanded;

136 (11) Health service needs of the client population and health con-  
137 sultation needs of the staff of the department of children and fami-  
138 lies, including (i) an examination of the ongoing need for physical  
139 and behavioral health services and consultation, including those  
140 related to mental health and substance abuse treatment, (ii) improved  
141 coordination and consultation by the department of children and  
142 families, the department of mental health and the department of  
143 public health, (iii) a critique of proposed best-practice models for  
144 more effective client behavioral health services and (iv) improved  
145 oversight and peer review of the safety and effectiveness of the use  
146 of psychotropic drugs by children involved with the department of  
147 children and families or the department of youth services;

148 (12) Critiques of the department of children and families,  
149 including (i) the potential alignment of a internal or external audit  
150 unit with the department's continuous quality improvement and  
151 quality service review initiatives and (ii) dissemination of the find-  
152 ings of these critiques to policy makers within and outside of the  
153 department;

154 (13) Criminal offender record information reviews, including an  
155 examination of the use of these reviews in out-of-home, kinship or  
156 foster, placements and a determination of areas for improved effi-  
157 ciency and equality;

158 (14) Aging-out, including the monitoring of how effectively the  
159 department of children and families assists adolescents who, due to  
160 their age, are transitioning out of the child welfare system with  
161 health care, housing, higher education and other needs;

162 (15) The court-approved remedial plan in the case of *Rosie D. v.*  
163 *Romney, et al.*, 410 F.Supp.2d 18 (NO. CIV.A.01-30199-MAP),  
164 including an examination of the impact on child welfare efforts of

165 the implementation of the remedial plan regarding the early and peri-  
166 odic screening, diagnostic, and treatment services provision and rea-  
167 sonable promptness provision of the federal Medicaid law, 42 U.S.C.  
168 §§ 1396a;

169 (16) MassHealth and the Massachusetts Behavioral Health Part-  
170 nership, including monitoring of the agencies' oversight of medical  
171 and behavioral health expenditures on behalf of the client population  
172 of the department of children and families; and

173 (17) Federal funding, including the development of a plan to  
174 address the Commonwealth's low Title IV-E saturation rate for  
175 foster children, such as the determination of AFDC status for the  
176 non-TANF population and expedited judicial determinations made  
177 within the required time frames.

1 SECTION 40. Paragraph (a) of Section 16 of Chapter 19A of the  
2 General Laws, as appearing in the 2006 Official Edition, is hereby  
3 amended by striking out the second sentence and inserting in place  
4 thereof the following sentence:—

5 In planning this system, the department shall require input from  
6 other protective service agencies and other agencies currently  
7 involved in the provision of social, health, legal, nutritional, and  
8 other services to the elderly, as well as elderly advocacy organiza-  
9 tions.

1 SECTION 41. Section 7 of Chapter 22A of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 2, the words  
3 "social services" and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 42. Section 68 of Chapter 22C of the General Laws, as  
2 so appearing, is hereby amended by striking out the second sentence  
3 and inserting in place thereof the following sentence:—

4 Such special state police officers shall serve for 1 year, subject to  
5 removal by the colonel, and they shall have and exercise throughout  
6 the Commonwealth the same powers as state police officers to serve  
7 warrants and other criminal processes for any criminal offense  
8 resulting from either a fraudulent claim for payment or service under  
9 any assistance program administered by the department of transi-  
10 tional assistance or any program administered by the department of

11 children and families or a receipt of payment or services by a person  
12 entitled thereto or for any violation of Chapter 273 relative to the  
13 support of spouses and children for whom the department of transi-  
14 tional assistance is entitled to receive payment, or in whose behalf  
15 said department is giving aid; except, that said officers shall not have  
16 the authority to arrest without a warrant.

1 SECTION 43. Section 10 of Chapter 28A of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 49, the  
3 words “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 44. Said Section 10 of said Chapter 28A, as so  
2 appearing, is hereby further amended by striking out paragraph (f)  
3 and inserting in place thereof the following paragraph:—

4 (f) The office shall promptly investigate and evaluate any notice  
5 transmitted to the office by the department of children and families  
6 under subsection (i) of Section 51B of Chapter 119. Such investiga-  
7 tion and evaluation shall determine whether the facility being oper-  
8 ated by a person subject to licensure under this section is being  
9 operated in compliance with this chapter and with the rules and reg-  
10 ulations established under paragraph (c). If, during the course of any  
11 such investigation or licensing study conducted by the office, any  
12 agent or employee of the office receives or discovers information  
13 concerning the occurrence of child abuse or neglect, such agent or  
14 that employee shall make a report to the department of children and  
15 families, under Section 51A of said Chapter 119.

1 SECTION 45. Section 9B of said Chapter 30 of the General  
2 Laws, as so appearing, is hereby amended by striking out, in line 20,  
3 the words “social services” and inserting in place thereof the  
4 following words:— children and families.

1 SECTION 46. Section 48 of said Chapter 31 of the General Laws,  
2 as so appearing, is hereby amended by striking out, in line 93, the  
3 words “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 47. Section 2A of Chapter 38 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 14, 44 and 139, the words “social services” and  
4 inserting in place thereof, in each instance, the following words:—  
5 children and families.

1 SECTION 48. Section 3 of said Chapter 38, as so appearing, is  
2 hereby amended by striking out, in line 43, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 49. Section 1A of Chapter 46 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 8, the words  
3 “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 50. Section 6 of said Chapter 46, as so appearing, is  
2 hereby amended by striking out, in lines 4 and 6, the words “social  
3 services” and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 51. Section 13 of said Chapter 46, as so appearing, is  
2 hereby amended by striking out, in lines 193 and 194 and in line  
3 200, the words “social services” and inserting in place thereof, in  
4 each instance, the following words:— children and families.

1 SECTION 52. Section 21 of Chapter 62C of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 34, the  
3 words “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 53. Section 10 of Chapter 66 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 64 and 65,  
3 the words “social services” and inserting in place thereof the  
4 following words:— children and families.

1 SECTION 54. Section 37L of Chapter 71 of the General Laws, as  
2 so appearing, is hereby amended by striking out the first paragraph  
3 and inserting in place thereof the following paragraph:—

4 The school committee of each city, town or regional school dis-  
5 trict shall inform teachers, administrators, and other professional  
6 staff of reporting requirements for child abuse and neglect under  
7 Section 51A of Chapter 119 and the reporting requirements for fires  
8 under Section 2A of Chapter 148.

1 SECTION 55. Said Section 37L of said Chapter 71, as so  
2 appearing, is hereby further amended by striking out, in lines 12 and  
3 15, the words “social services” and inserting in place thereof, in each  
4 instance, the following words:— children and families.

1 SECTION 56. Section 1 of Chapter 71B of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 55, the  
3 words “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 57. Section 2 of said Chapter 71B, as so appearing, is  
2 hereby amended by striking out, in line 2, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 58. Section 3 of said Chapter 71B, as so appearing, is  
2 hereby amended by striking out, in line 178, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 59. Section 5A of said Chapter 71B, as so appearing, is  
2 hereby amended by striking out, in line 50, the words “social serv-  
3 ices” and inserting in place thereof, in each instance, the following  
4 words:— children and families.

1 SECTION 60. Section 10 of said Chapter 71B, as so appearing, is  
2 hereby amended by striking out, in lines 37 and 45 , the words  
3 “social services” and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 61. Section 12B of said Chapter 71B, as so appearing,  
2 is hereby amended by striking out, in line 12, the words “social serv-

3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 62. Section 7 of Chapter 74 of the General Laws, as so  
2 appearing, is hereby amended by striking out, in line 5, the words  
3 “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 63. Section 7A of said Chapter 74, as so appearing, is  
2 hereby amended by striking out, in line 4, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 64. Section 8A of said Chapter 74, as so appearing, is  
2 hereby amended by striking out, in lines 6 and 7 , the words “social  
3 services” and inserting in place thereof the following words:— chil-  
4 dren and families.

1 SECTION 65. Section 15A of Chapter 75 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 10, the  
3 words “social services, the office of child care services” and  
4 inserting in place thereof the following words:— children and fami-  
5 lies, the department of early education and care.

1 SECTION 66. Section 7 of Chapter 76 of the General Laws, as so  
2 appearing, is hereby amended by striking out, in lines 4 and 15, the  
3 words “social services” and inserting in place thereof, in each  
4 instance, the following words:— children and families.

1 SECTION 67. Section 4J of Chapter 111 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 18 to 19,  
3 the words “social services” and inserting in place thereof the  
4 following words:— children and families.

1 SECTION 68. Said Chapter 111 is hereby amended by striking  
2 out Section 24K, inserted by Section 2 of Chapter 356 of the Acts of  
3 2006, and inserting in place thereof the following section:—  
4 Section 24L. (a) The department of public health shall collaborate  
5 with the department of children and families, the child abuse preven-

6 tion board and staff of the Children's Trust Fund, other state agen-  
7 cies serving families and children, health care providers, law  
8 enforcement personnel, human service providers, and child  
9 advocacy organizations to develop and implement a comprehensive,  
10 statewide shaken baby syndrome prevention initiative to reduce  
11 death and disability resulting from shaken baby syndrome. The ini-  
12 tiative shall be subject to appropriation and shall include, but not be  
13 limited to:—

14 (1) the institution of a program to educate patients concerning  
15 shaken baby syndrome prevention, provided that parents or  
16 guardians of a newborn shall, by the time of discharge from a hos-  
17 pital or birth center, receive education and materials to be developed  
18 by the department of public health describing the dangers of shaking  
19 infants and children and the risks associated with shaken baby syn-  
20 drome. Education and materials shall include, but not be limited to,  
21 information concerning the medical and physical effects of shaking  
22 infants and children, appropriate methods of handling infants and  
23 children, methods of preventing and reducing the risk of shaking  
24 infants and children, and the availability of community-based pro-  
25 grams and other resources to prevent shaken baby syndrome;

26 (2) the institution of education and training programs concerning  
27 the prevention and diagnosis of shaken baby syndrome for parents,  
28 caregivers, health care providers, and other professionals who serve  
29 or have contact with children and families, and the department of  
30 public health shall develop necessary educational materials;

31 (3) the development of a program to support and serve victims  
32 and families affected by shaken baby syndrome; and

33 (4) the creation of a surveillance and data collection program to  
34 measure the incidence of shaken baby syndrome and traumatic brain  
35 injury in infants and children.

36 (b) No caregivers, health providers, or other professionals serving  
37 children and families who provide education or report information  
38 related to the department's surveillance process shall be liable in any  
39 civil or criminal action, if the actions were required by this section  
40 and made in good faith.

41 (c) The department of public health may adopt regulations to  
42 implement this section. The department shall consult with a  
43 statewide advisory group of interested parties before implementation  
44 of the initiative and the regulations adopted under this section. The

45 department shall, in consultation with the department of children and  
46 families and the child abuse prevention board and staff of the Chil-  
47 dren’s Trust Fund, conduct an annual evaluation of the shaken baby  
48 syndrome prevention initiative and shall report annually to the gov-  
49 ernor concerning the activities undertaken as part of the initiative  
50 and the results of the annual evaluation. A copy of the report shall be  
51 filed with the clerks of the house of representatives and the senate no  
52 later than February of each year.

1 SECTION 69. Section 220 of said Chapter 111, as so appearing,  
2 is hereby amended by striking out, in line 23, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 70. The first paragraph of Section 13A of Chapter  
2 111E of the General Laws, as appearing in the 2004 Official Edition,  
3 is hereby amended by striking out the first sentence and inserting in  
4 place thereof the following sentence:— The division shall, in accor-  
5 dance with this section, accept for referral children determined to be  
6 in need of services under Section 39G of Chapter 119 and referred to  
7 the division by the department of children and families, hereinafter  
8 referred to as the department, or the juvenile court.

1 SECTION 71. Section 3 of Chapter 111G of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 5 and 6, the  
3 words “public welfare, the department of social services, and the  
4 office for children” and inserting in place thereof the following  
5 words:— transitional assistance, the department of children and fam-  
6 ilies, and the department of early education and care.

1 SECTION 72. Section 4B of Chapter 118 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 5, the words  
3 “social services” and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 73. Section 22 of Chapter 118G of the General Laws,  
2 as so appearing, is hereby amended by striking out, in lines 9 and 10,  
3 the words “social services” and inserting in place thereof the  
4 following words:— children and families.

1 SECTION 74. Chapter 119 of the General Laws is hereby  
2 amended by striking out Section 1, as so appearing, and inserting in  
3 place thereof the following section:—

4 Section 1. It is hereby declared to be the policy of this Common-  
5 wealth to direct its efforts, first, to the strengthening and encourage-  
6 ment of family life for the protection and care of children; to assist  
7 and encourage the use by any family of all available resources to this  
8 end; and to provide substitute care of children only when the family  
9 itself or the resources available to the family are unable to provide  
10 the necessary care and protection to insure the rights of any child to  
11 sound health and normal physical, mental, spiritual and moral devel-  
12 opment.

13 The purpose of this chapter is to insure that the children of the  
14 Commonwealth are protected against the harmful effects resulting  
15 from the absence, inability, inadequacy or destructive behavior of  
16 parents or parent substitutes, and to assure good substitute parental  
17 care in the event of the absence, temporary or permanent inability or  
18 unfitness of parents to provide care and protection for their children.

19 The health and safety of the child shall be of paramount concern  
20 and shall include the long-term well-being of the child.

21 In all matters and decisions by the department of children and  
22 families, the policy of the department, as applied to children in its  
23 care and protection or children who receive its services, shall be to  
24 define best interests of the child as that which shall include, but not  
25 be limited to, considerations of precipitating factors and previous  
26 conditions leading to any decisions made in proceedings related to  
27 the past, current and future status of the child, the current state of the  
28 factors and conditions together with an assessment of the likelihood  
29 of their amelioration or elimination; the child's fitness, readiness,  
30 abilities and developmental levels; the particulars of the service plan  
31 designed to meet the needs of the child within his current placement  
32 whether with the child's family or in a substitute care placement and  
33 whether such service plan is used by the department or presented to  
34 the courts with written documentation; and the effectiveness, suit-  
35 ability and adequacy of the services provided and of placement deci-  
36 sions, including the progress of the child or children therein. The  
37 department's considerations of appropriate services and placement  
38 decisions shall be made in a timely manner in order to facilitate per-  
39 manency planning for the child.

40 In all department proceedings that affect the child's past, current  
41 and future placements and status, when determining the best inter-  
42 ests of the child, there shall be a presumption of competency that a  
43 child who has attained the age of 12 is able to offer statements on his  
44 own behalf and shall be provided with timely opportunities and  
45 access to offer such statements, which shall be considered by the  
46 department if the child is capable and willing. In all matters relative  
47 to the care and protection of a child, the ability, fitness and capacity  
48 of the child shall be considered in all department proceedings.

49 For purposes of this section, the words "all department proceed-  
50 ings" shall include departmental hearings and proceedings but shall  
51 not include a court proceeding even when the department is a party.

1 SECTION 75. Said Chapter 119 is hereby further amended by  
2 striking out Section 21, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 21. As used in Sections 21 to 55H, inclusive, the  
5 following words shall have the following meanings, unless the con-  
6 text clearly otherwise requires:— "51A report", a report filed pur-  
7 suant to Section 51A that details suspected child abuse or neglect.

8 "Commissioner", the commissioner of children and families.

9 "Department", the department of children and families.

10 "Child in need of services", a child below the age of 17 who per-  
11 sistently runs away from the home of his parents or legal guardian,  
12 or persistently refuses to obey the lawful and reasonable commands  
13 of his parents or legal guardian, thereby resulting in said parent's or  
14 guardian's inability to adequately care for and protect said child, or a  
15 child between the ages of six and sixteen who persistently and wil-  
16 fully fails to attend school or persistently violates the lawful and rea-  
17 sonable regulations of his school.

18 "Custody", shall include the powers to:— (1) to determine the  
19 child's place of abode, medical care and education; (2) to control  
20 visits to the child; and (3) to consent to enlistments, marriages and  
21 other contracts otherwise requiring parental consent. If the parent or  
22 guardian objects to the carrying out of any power conferred by this  
23 paragraph, that parent or guardian may take application to the com-  
24 mitting court and the court shall review and make an order on the  
25 matter.

26 “Evidence”, shall be admissible according to the rules of the  
27 common law and the General Laws and may include reports to the  
28 court by any person who has made an investigation of the facts  
29 relating to the welfare of the child and is qualified as an expert  
30 according to the rules of the common law or by statute or is an agent  
31 of the department or of an approved charitable corporation or agency  
32 substantially engaged in the foster care or protection of children.  
33 Such person may file with the court in a proceeding under said sec-  
34 tions a report in full of all the facts obtained as a result of such  
35 investigation. The person reporting may be called as a witness by  
36 any party for examination as to the statements made in the report.  
37 Such examination shall be conducted as though it were on cross-  
38 examination. Evidence may include testimony of foster parents or  
39 pre-adoptive parents concerning the welfare of a child if such child  
40 has been in the care of the foster or pre-adoptive parents for six  
41 months or more, and may include the testimony of the child if the  
42 court determines that the child is competent and willing, after con-  
43 sultation with counsel, if any, to testify.

44 “Mandated reporter”, a person who is a (i) physician, medical  
45 intern, hospital personnel engaged in the examination, care or treat-  
46 ment of persons, medical examiner, psychologist, emergency med-  
47 ical technician, dentist, nurse, chiropractor, podiatrist, optometrist,  
48 osteopath, allied mental health and human services professional as  
49 licensed under Section 165 of Chapter 112, drug and alcoholism  
50 counselor, psychiatrist, clinical social worker; (ii) who is a public or  
51 private school teacher, educational administrator, guidance or family  
52 counselor, day care worker, person paid to care for or work with a  
53 child in any public or private facility, or home or program funded by  
54 the Commonwealth or licensed under Chapter 28A that provides day  
55 care or residential services to children or that provides the services  
56 of child care resource and referral agencies, voucher management  
57 agencies or family day care systems or child care food programs,  
58 licenser of the department of early education and care, school atten-  
59 dance officer; (iii) probation officer, clerk-magistrate of the district  
60 courts, parole officer, social worker, foster parent, firefighter,  
61 policeman, (iv) priest, rabbi, clergy member, ordained or licensed  
62 minister, leader of any church or religious body, accredited Christian  
63 Science practitioner, person performing official duties on behalf of a  
64 church or religious body that are recognized as the duties of a priest,

65 rabbi, clergy, ordained or licensed minister, leader of any church or  
66 religious body, accredited Christian Science practitioner, or person  
67 employed by a church or religious body to supervise, educate, coach,  
68 train or counsel a child on a regular basis or (v) person in charge of a  
69 medical or other public or private institution, school or facility or his  
70 designated agent.

71 “Parent”, means mother or father, unless specified parent as  
72 defined under Section 1 of Chapter 118.

1 SECTION 76. Said Chapter 119 is hereby further amended by  
2 striking out Section 22, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 22. An agent of the department shall visit each family  
5 foster home, not supervised and approved by a licensed placement  
6 agency, at least once a year and may be authorized by the depart-  
7 ment to remove a child to its care if in its judgment the welfare of  
8 the child or its protection from neglect or abuse so require. An agent  
9 who is refused entry or hindered in the removal of such child may  
10 make complaint, on oath, to a justice of the court having jurisdiction;  
11 who may thereupon issue a warrant authorizing the agent to obtain  
12 sufficient aid and, at any reasonable time, enter the building desig-  
13 nated, and any part thereof, to investigate the treatment and condi-  
14 tion of a child found there and to remove the child as herein  
15 provided. The department shall take the child temporarily into its  
16 care, immediately notify the child’s parent or legal guardian and,  
17 upon request, discharge the child to its parent or legal guardian. If  
18 the parent or legal guardian is unable or refuses to make suitable  
19 provisions for the child, the department shall make lawful provisions  
20 for the child’s care under Section 23 or 24.

1 SECTION 77. Said Chapter 119 is hereby further amended by  
2 striking out Section 23, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 23. (a) The department shall develop guidelines and stan-  
5 dards for the placement of children under 18 years of age in foster  
6 care. The guidelines and standards shall be reviewed by the execu-  
7 tive office of health and human services.

8 (b) The department shall have the responsibility, including finan-  
9 cial responsibility, for providing foster care for children through its

10 own resources or by use of appropriate voluntary agencies,  
11 according to the rules and regulations of the department, in the  
12 following instances:—

13 (1) If a child, a parent, a guardian, or any person acting on behalf  
14 of a child applies for foster care, the department may accept the  
15 child who in its judgment is in need of foster care. Such acceptance  
16 shall entail no abrogation of parental rights or responsibilities, but  
17 the department may accept from parents a temporary delegation of  
18 certain rights and responsibilities necessary to provide the foster care  
19 for a period of time under conditions agreed upon by both and ter-  
20 minable by either. If the department determines that continued place-  
21 ment beyond 6 months is required for reasons unrelated to parental  
22 unfitness and the parent consents to continued placement, the depart-  
23 ment may file a petition for care and responsibility in the probate  
24 court on behalf of a child accepted into foster care. At the initial  
25 hearing on the petition, the court shall determine whether continued  
26 placement with the department is in the child's best interests and  
27 shall issue its determination, including the rationale therefor, in  
28 written form. The allowance of the petition shall not abrogate a par-  
29 ent's right to make decisions on behalf of the child, but the depart-  
30 ment may accept from the parent a temporary delegation of certain  
31 rights and responsibilities necessary to continue to provide foster  
32 care for the child under conditions agreed upon by both and ter-  
33 minable by either. Notwithstanding any general or special law to the  
34 contrary, a permanency hearing shall be held within 60 days of the  
35 transfer of responsibility by order of the probate court or within 12  
36 months of initial placement into foster care with the department,  
37 whichever date is later. The hearing shall be conducted as provided  
38 in Section 29B.

39 (2) If parents apply for voluntary surrender of custody of their  
40 children under 18 years of age for purposes of giving consent to  
41 adoption, the department may accept the children under the same  
42 conditions as in clause (1).

43 (3) If a child under 18 years of age is without proper guardianship  
44 due to death, unavailability, incapacity or unfitness of the parent or  
45 guardian or on the consent of the parent or parents, the department  
46 may seek a probate court order to accept responsibility for the child.  
47 Such responsibility shall include the right to:— (i) determine the  
48 child's abode, medical care and education; (ii) control visits to the

49 child; (iii) consent to enlistments, marriages and other contracts  
50 requiring parental consent, and (iv) consent to adoption only when it  
51 is expressly included in the order of the court. In making an order,  
52 the probate court shall consider the Section 29C and shall make the  
53 written certification and determinations required by said Section  
54 29C. If a child is in the care of the department of mental health or  
55 the department of mental retardation, the responsibility enumerated  
56 above and all rights therein contained shall continue in the depart-  
57 ment. If a mentally retarded person who has been declared mentally  
58 incompetent was the responsibility of the department prior to  
59 reaching the age of 18, the department shall continue to be respon-  
60 sible until the person is declared to be no longer legally incompetent.

61 (4) The department shall accept on commitment from the juvenile  
62 court any child under 18 years of age declared in need of foster care  
63 under Section 26 or declared to be a child in need of services under  
64 Section 39G.

65 (5) Any child under 18 years who is left in any place and who is  
66 seemingly without a parent or legal guardian available shall be  
67 immediately reported to the department, which shall proceed to  
68 arrange care for such child temporarily and shall forthwith cause  
69 search to be made for parent or guardian. If parent or guardian  
70 cannot be found or is unable or refuses to make suitable provisions  
71 for the child, the department shall make such lawful provision as  
72 seems for the best interest of such child under this chapter.

73 (6) If the department has in its care a child whose parent or par-  
74 ents have consented to his adoption and the department has been  
75 unable to place such child in an adoptive home within 60 days of the  
76 receipt of this consent, it shall so notify all children's foster care  
77 agencies in the Commonwealth licensed to place children for adop-  
78 tion. The notice shall request that each such agency attempt to find  
79 an adoptive home for such child. If 1 of the agencies locates an  
80 adoptive home for this child, the department shall cooperate with the  
81 agency in the placement of the child in this home and in the supervi-  
82 sion of the placement during the 1 year waiting period. Any person  
83 in whose home a child has been placed by the department shall also  
84 be informed by the department if the child has become eligible for  
85 adoption, and this person may request consideration as a prospective  
86 adoptive parent.

87 (7) A temporary shelter care facility program or a group care  
88 facility, licensed under Chapter 28A, may provide temporary shelter  
89 for a 72-hour period to a child under 18 without parental consent;  
90 provided that the child's welfare would be endangered if such shelter  
91 were not immediately provided. At the expiration of the 72-hour  
92 period, the licensee shall (i) secure the consent of parent or guardian  
93 to continued custody and care, (ii) refer the child to the department  
94 for custody and care, or (iii) refuse to provide continued care and  
95 custody to the child.

96 (c) The department may pay a sum not exceeding \$1,100 for the  
97 funeral and burial of a child in its care; provided that the cost of  
98 funeral and burial does not exceed \$1,500 and there are insufficient  
99 resources to pay for the cost of the funeral and burial. Any resources  
100 of the child shall be deducted from the maximum cost of the funeral  
101 and burial allowable hereunder and the difference, subject to the lim-  
102 itation set forth in this paragraph, shall be paid by the department.

103 (d) If a child is placed in or transferred to a foster home, a com-  
104 pleted child profile form shall precede or accompany the child to the  
105 foster home.

106 In the case of an emergency placement, the department, the  
107 department of youth services, the department of mental health, other  
108 departments of the Commonwealth responsible for the placement of  
109 foster children, or placement agency shall immediately provide a  
110 brief verbal or written statement describing the child's outstanding  
111 problem behaviors and mental and emotional problems and shall  
112 provide the child profile form within 10 days to the foster parents.

113 The department shall develop a child profile form to be used by  
114 all other departments of the Commonwealth or placement agencies  
115 that shall contain the child profile and any other relevant information  
116 necessary to the care, well-being, protection, and parenting of the  
117 child by the foster parents, including, but not be limited to:— (i) a  
118 history of the child's previous placements and reasons for placement  
119 changes, (ii) a history of the child's problem behaviors and mental  
120 and emotional problems, (iii) educational status and school related  
121 problem behaviors, and (iv) any other psychological, educational,  
122 medical, and health information necessary.

123 The child profile form shall immediately be prepared by the  
124 department of the Commonwealth which is granted care and custody  
125 of the child at the time such care and custody is granted.

126 (e) The department may continue to have the responsibility for  
127 any person provided for in this section under 21 years for the pur-  
128 poses of specific educational or rehabilitative programs, under con-  
129 ditions agreed upon by both the department and the person and  
130 terminable by either.

131 (f) The department shall obtain and provide to the IV-D agency, as  
132 set forth in Chapter 119A, an assignment of support rights on behalf  
133 of each child receiving foster care maintenance payments under Title  
134 IV, Part E, of the Social Security Act. The department shall be sub-  
135 rogated to the rights of each such child and shall obtain and provide  
136 to the IV-D agency information that may be reasonably necessary to  
137 enforce the department's right, including, but not limited to the  
138 following information:— the child's name, date of birth, place of  
139 birth, Social Security number, address and benefit level and, if  
140 known, each parent's name, date of birth, place of birth, Social Secu-  
141 rity number, most recent address and most recent employer. The  
142 department shall immediately notify the IV-D agency when a child  
143 whose rights to support are subrogated no longer receives foster care  
144 maintenance payments pursuant to said Title IV, Part E, of the Social  
145 Security Act.

1 SECTION 78. Said Chapter 119 is hereby further amended by  
2 striking out Section 24, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 24. A person may petition under oath the juvenile court  
5 alleging on behalf of a child under the age of 18 within its jurisdic-  
6 tion that the child:— (a) is without necessary and proper physical or  
7 educational care and discipline; (b) is growing up under conditions  
8 or circumstances damaging to the child's sound character develop-  
9 ment; (c) lacks proper attention of the parent, guardian with care and  
10 custody or custodian; or (d) has a parent, guardian or custodian who  
11 is unwilling, incompetent or unavailable to provide any such care,  
12 discipline or attention.

13 The court may issue a precept to bring the child before the court,  
14 and shall issue a notice to the department and summonses to both  
15 parents of the child to show cause why the child should not be com-  
16 mitted to the custody of the department or why any other appropriate  
17 order should not be made. The summonses shall include notice that  
18 the court may dispense with the right of the parents to notice of or

19 consent to the adoption, custody or guardianship or any other dispo-  
20 sition of the child named therein if it finds that the child is in need of  
21 care and protection and that the best interests of the child would be  
22 served by any such disposition. Notice shall be by personal service  
23 upon the parent. If the identity or whereabouts of a parent is  
24 unknown, the petitioner shall cause notice in a form prescribed by  
25 the court to be served upon such parent by publication once in each  
26 of 3 successive weeks in any newspaper as the court may order. If no  
27 parent can be found after reasonable search, a summons shall be  
28 issued to the child's legal guardian, if any, known to reside within  
29 the Commonwealth and, if none, to the person with whom such child  
30 last resided, if known. If the court is satisfied after the petitioner tes-  
31 tifies under oath that there is reasonable cause to believe that (i) the  
32 child is suffering from serious abuse or neglect or is in immediate  
33 danger of serious abuse or neglect and (ii) that immediate removal of  
34 the child is necessary to protect the child from serious abuse or  
35 neglect, the court may issue an emergency order transferring custody  
36 of the child for up to 72 hours to the department or to a licensed  
37 child care agency or individual described in clause (2) of the second  
38 paragraph of Section 26. Upon entry of the order, notice to appear  
39 before the court shall be given to either parents, both parents, a  
40 guardian with care and custody or another custodian. At that time,  
41 the court shall determine whether temporary custody shall continue  
42 beyond 72 hours until a hearing on the merits of the petition for care  
43 and protection is concluded before the court. The court shall also  
44 consider the provisions of Section 29C and shall make the written  
45 certification and determinations required by said Section 29C.

46 Upon the issuance of the precept and order of notice, the court  
47 shall appoint a person qualified under Section 21 to investigate the  
48 conditions affecting the child and to make a report under oath to the  
49 court, which shall be attached to the petition and be a part of the  
50 record.

51 If the child is alleged to be abandoned, as defined in Section 3 of  
52 Chapter 210, hearings on the petition under Section 26 shall be  
53 expedited.

54 If the parents or guardians consent, a child may be committed to  
55 the department under this section without a hearing or notice.

1 SECTION 79. Said Chapter 119 is hereby further amended by  
2 striking out Section 25, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 25. The petition under Section 24 may be heard on the  
5 merits when a child is taken into custody and brought before the  
6 court or may be continued to a time fixed for hearing. Pending the  
7 hearing on the merits, the court may allow the child to be placed in  
8 the care of some suitable person or licensed agency providing foster  
9 care for children or may commit the child to the custody of the  
10 department.

11 If the court commits a child to the custody of the department, the  
12 court shall consider the provisions of Section 29C and shall make  
13 the written certification and determinations required by said Section  
14 29C.

1 SECTION 80. Said Chapter 119 is hereby further amended by  
2 striking out Section 26, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 26. (a) If the child is identified by the court and it appears  
5 that the precept and summonses have been duly and legally served,  
6 that said notice has been issued to the department and said report is  
7 received, the court may excuse the child from the hearing and shall  
8 proceed to hear the evidence.

9 (b) If the court finds the allegations in the petition proved within  
10 the meaning of this chapter, it may adjudge that the child is in need  
11 of care and protection. In making such adjudication, the health and  
12 safety of the child shall be of paramount concern. If the child is  
13 adjudged to be in need of care and protection, the court may commit  
14 the child to the custody of the department until he becomes 18 years  
15 of age or until, in the opinion of the department, the object of his  
16 commitment has been accomplished, whichever occurs first. The  
17 court also may make any other appropriate order, including condi-  
18 tions and limitations, about the care and custody of the child as may  
19 be in his best interest, including, but not limited to, any 1 or more of  
20 the following:—

21 (1) It may permit the child to remain with his parents, guardian, or  
22 other custodian, including supervision as directed by the court for  
23 the care and protection of the child.

24 (2) It may transfer temporary legal custody to:—

25 (i) any individual who, after study by a probation officer or other  
26 person or agency designated by the court, is found by the court to be  
27 qualified to give care to the child;

28 (ii) any agency or other private organization licensed or otherwise  
29 authorized by law to receive and provide care for the child; or

30 (iii) the department of children and families.

31 (3) It may order appropriate physical care including medical or  
32 dental care.

33 (4) It may dispense with the need for consent of any person  
34 named in Section 2 of Chapter 210 to the adoption, custody,  
35 guardianship or other disposition of the child named therein.

36 In determining whether such an order should be made, the stan-  
37 dards set forth in Section 3 of said Chapter 210 concerning an order  
38 to dispense with the need for consent to adoption of a child shall be  
39 applied. If the child who is the subject of the petition is under the  
40 age of 12, and if the court adjudicates the child to be in need of care  
41 and protection under this section, the court shall enter an order dis-  
42 pensing with the need for consent to adoption upon finding that the  
43 best interests of the child, as defined in paragraph (c) of said Section  
44 3 of said Chapter 210, will be served thereby. The entry of such an  
45 order shall have the effect of terminating the rights of a person  
46 named therein to receive notice of or to consent to any legal pro-  
47 ceeding affecting the custody, guardianship, adoption or other dispo-  
48 sition of the child named therein.

49 The department shall file a petition or a motion to amend a peti-  
50 tion to dispense with parental consent to adoption, custody,  
51 guardianship or other disposition of the child if:— (i) the child has  
52 been abandoned; (ii) the parent has been convicted by a court of  
53 competent jurisdiction of the murder or voluntary manslaughter of  
54 another child of such parent, of aiding, abetting, attempting, con-  
55 spiring or soliciting to commit such murder or voluntary  
56 manslaughter or of an assault constituting a felony which resulted in  
57 serious bodily injury to the child or to another child of such parent;  
58 or (iii) the child has been in foster care in the custody of the state for  
59 15 of the immediately preceding 22 months. Under this paragraph, a  
60 child shall be considered to have entered foster care on the earlier  
61 of:— (a) the date of the first judicial finding, pursuant to Section 24  
62 or this section, that the child has been subjected to abuse or neglect;  
63 or (b) the date that is 60 days after the date on which the child is

64 removed from the home. Under this section, “serious bodily injury”  
65 shall mean bodily injury which involves a substantial risk of death,  
66 extreme physical pain, protracted and obvious disfigurement or pro-  
67 tracted loss or impairment of the function of a bodily member, organ  
68 or mental faculty. The department shall concurrently identify,  
69 recruit, process, and approve a qualified family for adoption.

70 The department need not file such a motion or petition to dispense  
71 with parental consent to the adoption, custody, guardianship or other  
72 disposition of the child if the child is being cared for by a relative or  
73 the department has documented in the case plan a compelling reason  
74 for determining that such a petition would not be in the best interests  
75 of the child or that the family of the child has not been provided,  
76 consistent with the time period in the case plan, such services as the  
77 department deems necessary for the safe return of the child to the  
78 child’s home if reasonable efforts as set forth in Section 29C are  
79 required to be made with respect to the child.

80 Notwithstanding the foregoing, the following circumstances shall  
81 constitute grounds for dispensing with the need for consent to adop-  
82 tion, custody, guardianship or other disposition of the child:— (i) the  
83 child has been abandoned; (ii) the parent has been convicted by a  
84 court of competent jurisdiction of the murder or voluntary  
85 manslaughter of another child of such parent, of aiding, abetting,  
86 attempting, conspiring or soliciting to commit such murder or volun-  
87 tary manslaughter or of an assault constituting a felony which  
88 resulted in serious bodily injury to the child or to another child of the  
89 parent.

90 (5) Whenever the child is placed in family foster care, the court  
91 shall ensure that grandparents, upon their request, have access to rea-  
92 sonable visitation rights with the child who is the subject of the peti-  
93 tion and that the department establishes a schedule for such  
94 visitation unless it is determined by the court or the department that  
95 such visitation is not in the child’s best interests. In determining the  
96 best interests of the child, the court or the department shall consider  
97 the goal of the service plan and the relationship between the grand-  
98 parents and the child’s parents or legal guardian. Upon recommenda-  
99 tion by the department or on its own accord, the court may establish  
100 reasonable conditions governing grandparent visitations, including  
101 but not limited to requiring that the grandparents be restrained from  
102 revealing the whereabouts of the child’s placement. Grandparents

103 who are denied visitation rights by the department may appeal  
104 through the department's fair hearing process.

105 The court shall, whenever reasonable and practical and based  
106 upon a determination of the best interests of the child, ensure that  
107 children placed in foster care shall have access to and visitation with  
108 siblings in other foster or pre-adoptive homes or in the homes of par-  
109 ents or extended family members throughout the period of place-  
110 ment in the care and custody of the Commonwealth, or subsequent  
111 to such placements, if the children or their siblings are separated  
112 through adoption or long-term or short-term placements in foster  
113 care.

114 The courts shall determine, at the time of the initial placements  
115 wherein children and their siblings are separated through placements  
116 in foster, pre-adoptive, or adoptive care, that such visitation rights be  
117 implemented through a schedule of visitations or supervised visita-  
118 tions, to be arranged and monitored through the appropriate public  
119 or private agency, and with the participation of the foster, pre-adop-  
120 tive or adoptive parents, or extended family members, and the child,  
121 if reasonable, and other parties who are relevant to the preservation  
122 of sibling relationships and visitation rights.

123 Periodic reviews shall evaluate the effectiveness and appropriate-  
124 ness of the visitations between these siblings.

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

129 (6) The court may order the parents or parent of said child to  
130 reimburse the Commonwealth or other agency for care in appro-  
131 priate cases.

132 (c) On any petition filed in any court pursuant to this section, the  
133 department, parents, person having legal custody of, counsel for a  
134 child, the probation officer, guardian or guardian ad litem may peti-  
135 tion the court not more than once every 6 months for a review and  
136 redetermination of the current needs of such child whose case has  
137 come before the court, except that any person against whom a decree  
138 to dispense with consent to adoption has been entered pursuant to  
139 clause (4) of the subsection (b) shall not have such right of petition  
140 for review and redetermination. Unless the court enters written find-  
141 ings setting forth specific extraordinary circumstances that require

142 continued intervention by the court, the court shall enter a final order  
143 of adjudication and permanent disposition, no later than 15 months  
144 after the date the case was first filed in court; provided, however,  
145 that the date by which a final order of adjudication and permanent  
146 disposition shall be entered may be extended once for a period not to  
147 exceed 3 months; and, provided, further, that said extension shall  
148 only be granted if the court makes written finding that the parent has  
149 made consistent and goal-oriented progress likely to lead to the  
150 child's return to the parent's care and custody. Findings in support of  
151 such final order of adjudication and permanent disposition shall be  
152 made in writing within a reasonable time of the court's order. The  
153 court shall not lose jurisdiction over the petition by reason of its  
154 failure to enter a final order and the findings in support thereof  
155 within the time set forth in this paragraph.

1 SECTION 81. Said Chapter 119 is hereby further amended by  
2 striking out section 26A, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 26A. When deciding whether to approve or reject a regis-  
5 tration of interest for foster care placement, the department shall  
6 conduct a review of any misdemeanor offense discovered through a  
7 criminal offender record information search conducted pursuant to  
8 Section 172B of Chapter 6 in order to assist the department in accu-  
9 rately evaluating whether the mere existence of the offense has a  
10 substantial effect on the applicant's current or future ability to  
11 assume and carry out the responsibilities of a foster parent in such a  
12 manner that the rights of the child to sound health and normal phys-  
13 ical, mental, spiritual and moral development are insured. The  
14 review shall include, but not be limited to, a review of the  
15 following:— (i) the time that has elapsed between the date of the  
16 offense and the filing of the registration of interest, (ii) the serious-  
17 ness and specific circumstances of the offense, (iii) the number and  
18 nature of other offenses, (iv) the age of the offender at the time of  
19 the offense, (v) the findings and recommendations of the family  
20 resource worker assigned by the department to discuss the facts sur-  
21 rounding the misdemeanor with the applicant, (vi) the recommenda-  
22 tions given to the family resource worker by personal or  
23 employment references chosen by the applicant or received other-  
24 wise, (vii) the current and future needs of the child to be placed and

25 the probable effect that the misdemeanor would have on the appli-  
26 cant's ability to fulfill those needs, (viii) any reports or recommenda-  
27 tions received by the department from the applicant's parole or  
28 probation officer should 1 have been assigned, (ix) a copy of the  
29 police report pertaining to the offense in question if obtainable  
30 within a reasonable period of time or discussions with a police  
31 officer familiar with the facts surrounding the offense and (x) discus-  
32 sions with the child to be placed regarding his current and past rela-  
33 tionship with the applicant, unless these discussions are  
34 inappropriate. Nothing in this section shall be construed to affect the  
35 discretion of the department to approve or reject the registration of  
36 interest for foster care placement.

1 SECTION 82. Said Chapter 119 is hereby amended by striking  
2 out Section 28, as so appearing, and inserting in place thereof the  
3 following section:—

4 Section 28. (a) During the pendency of an action brought pursuant  
5 to Section 24, temporary orders providing for the support of a child  
6 may be entered. The court may thereafter enter a judgment against  
7 the party chargeable with support. When the court makes an order of  
8 support on behalf of a party, and such party is not covered by a pri-  
9 vate group health insurance plan, the court shall determine whether  
10 the person chargeable with support has private health insurance or a  
11 group plan available to him through an employer or organization that  
12 may be extended to cover the party for whom support is ordered.  
13 When said court has determined that the person chargeable with sup-  
14 port has such insurance, said court shall include in the order or judg-  
15 ment a provision relating to said insurance.

16 Any such order of support shall conform to and be enforced under  
17 Section 12 of Chapter 119A.

18 (b) Actions under this section to establish support of a child may  
19 be commenced by a parent, whether a minor or not; by the child; by  
20 the child's guardian, next of kin or other person standing in a  
21 parental relationship to the child; by the authorized agent of the  
22 department of children and families or any agency licensed under  
23 Chapter 28A provided that the child is in their custody or is or was a  
24 recipient of any type of public assistance by the IV-D agency as set  
25 forth in Chapter 119A on behalf of the department of transitional  
26 assistance, the department of children and families, the division of

27 medical assistance, or any other public assistance program of the  
28 Commonwealth. In the event that someone other than the IV-D  
29 agency commences the action, if the parent or child is or was a  
30 recipient of any type of public assistance, the court shall notify said  
31 IV-D agency of the pendency of the action and said IV-D agency  
32 shall be permitted to intervene in the action.

33 (c) An order, or judgment of support pursuant to this section may  
34 be entered notwithstanding the default of the person chargeable with  
35 support or his failure to appear personally.

36 (d) In determining the amount of current support to be paid, the  
37 court shall apply the child support guidelines established by the  
38 chief administrative justice of the trial court, or, in the absence of  
39 such standards, shall consider the factors set forth in Section 32 of  
40 Chapter 209.

41 (e) The person chargeable with support shall comply with said  
42 order, or judgment until the same is dismissed or expires. When an  
43 action brought under Section 24 of this chapter is dismissed or a  
44 final order of commitment is entered, the order or judgment of sup-  
45 port shall expire 6 months after the judgment of dismissal or final  
46 order of commitment. At the time of such dismissal or final order of  
47 commitment, the court shall notify the parties and the IV-D agency,  
48 as set forth in Chapter 119A, of the expiration date of the support  
49 order or judgment.

1 SECTION 83. Said Chapter 119 is hereby further amended by  
2 striking out Section 29, as so appearing, and inserting in place  
3 thereof the follow section:—

4 Section 29. Whenever a child is before any court under paragraph  
5 C of subsection (2) of Section 23 or Sections 24 to 27, inclusive, or  
6 Section 29B, the child shall have and be informed of the right to  
7 counsel at all hearings and that the court shall appoint counsel for  
8 the child if the child is not able to retain counsel.

9 Whenever the department or a licensed child placement agency is  
10 a party to child custody proceedings, the parent, guardian or custo-  
11 dian of the child (i) shall have and be informed of the right to  
12 counsel at all such hearings, including proceedings under Sections 5  
13 and 14 of Chapter 201, and that the court shall appoint counsel if he  
14 is financially unable to retain counsel and (ii) shall have and be  
15 informed of the right to a service plan or case plan for the child and

16 his family which complies with applicable state and federal laws and  
17 regulations for such plans. The probate and family court department  
18 of the trial court shall establish procedures for (i) notifying the  
19 parent, guardian or custodian of these rights and (ii) appointing  
20 counsel for an indigent parent, guardian or custodian within 14 days  
21 of a licensed child placement agency filing or appearing as a party in  
22 any such action. The department or agency shall provide a copy of  
23 the service or case plan to the parent, guardian or custodian of the  
24 child and to the attorneys for all parties appearing in the proceeding  
25 within 45 days of the department or agency filing an appearance in  
26 such proceeding. Thereafter, any party may have the original or  
27 changed plan introduced as evidence, and with the consent of all par-  
28 ties the plan shall be filed with the court. Notwithstanding this  
29 section, the court may make such temporary orders as may be neces-  
30 sary to protect the child and society.

31 The department, upon its request, shall be represented by the dis-  
32 trict attorney for the district in which the case is being heard.

1 SECTION 84. Said Chapter 119 is hereby further amended by  
2 striking out Section 29C, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 29C. If a court of competent jurisdiction commits, grants  
5 custody or transfers responsibility for a child to the department or its  
6 agent, the court shall certify that the continuation of the child in his  
7 home is contrary to his best interests and shall determine whether the  
8 department or its agent, as appropriate, has made reasonable efforts  
9 prior to the placement of a child with the department to prevent or  
10 eliminate the need for removal from the home; but, if a child has  
11 been placed voluntarily with the department by the parent under  
12 clause (1) of subsection (b) of Section 23 and the parent consents to  
13 continued placement pursuant to a petition filed under said clause (1)  
14 or clause (2) of said subsection (b) of said Section 23, the court shall  
15 determine at an initial hearing only whether continued placement is  
16 in the child's best interests. Except as provided herein, if a court has  
17 previously committed, granted custody or transferred responsibility  
18 for a child to the department or its agent, the court shall determine  
19 not less than annually whether the department or its agent has made  
20 reasonable efforts to make it possible for the child to return safely to

21 his parent or guardian. In making any determination, the health and  
22 safety of the child shall be of paramount concern.

23 Reasonable efforts by the department prior to removal of a child  
24 from the home or to return the child to a parent or guardian shall not  
25 be required if the court finds that:— (i) the child has been abandoned  
26 as defined in Section 3 of Chapter 210; (ii) the parent’s consent to  
27 adoption of a sibling of the child was dispensed with under Section  
28 26 or under said Section 3 of said Chapter 210, or the parent’s rights  
29 were involuntarily terminated in a case involving a sibling of the  
30 child; (iii) the parent has been convicted of 1 of the following crimes  
31 by a court of competent jurisdiction:— (a) murder or voluntary  
32 manslaughter of another child of the parent or aiding, abetting,  
33 attempting, conspiring or soliciting to commit such a murder or vol-  
34 untary manslaughter; or (b) an assault constituting a felony which  
35 resulted in serious bodily injury to the child or another child of the  
36 parent; or (iv) a parent has subjected the child to aggravated circum-  
37 stances consisting of murder of another parent of the child in the  
38 presence of the child or by subjecting the child or other children in  
39 the home to sexual abuse or exploitation or severe or repetitive con-  
40 duct of a physically or emotionally abusive nature. For the purposes  
41 of this section, conduct of an “emotionally abusive nature” shall  
42 mean any conduct causing an impairment to or disorder of the intel-  
43 lectual or psychological capacity of a child as evidenced by observ-  
44 able and substantial reduction in the child’s ability to function within  
45 a normal range of performance and behavior. For the purposes of  
46 this section, “serious bodily injury” shall mean bodily injury which  
47 involves a substantial risk of death, extreme physical pain, pro-  
48 tracted and obvious disfigurement or protracted loss or impairment  
49 of the function of a bodily member, organ or mental faculty.

50 If a court has determined at a permanency hearing convened pur-  
51 suant to section 29B, that reasonable efforts to safely return the child  
52 to his parent or guardian are inconsistent with the permanency plan  
53 for the child or if a court has determined that reasonable efforts are  
54 not required as set forth herein, the court shall determine at least  
55 annually thereafter whether the department has made reasonable  
56 efforts to place the child in a timely manner in accordance with the  
57 permanency plan determined and reviewed under Section 29B.

58 The court shall make the certification and determinations required  
59 under this section in written form, which shall include the basis for

60 the certification and determinations. A determination by the court  
61 that reasonable efforts were not made shall not preclude the court  
62 from making any appropriate order conducive to the child's best  
63 interest.

1 SECTION 85. Said Chapter 119 is hereby further amended by  
2 striking out Section 38, as so appearing, and inserting in place  
3 thereof the following 2 sections:—

4 Section 38. All hearings under Sections 1 to 37, inclusive, except  
5 those related to court orders to not resuscitate or to withdraw life-  
6 sustaining medical treatment, shall be closed to the general public  
7 and it shall be unlawful to publish the names of persons before the  
8 court in any hearing provided for therein, except under Section 21.

9 Section 38A. In any proceedings related to court orders to not  
10 resuscitate or to withdrawal life-sustaining medical treatment, the  
11 department shall require a written opinion from the child's treating  
12 physician and a written recommendation from the ethics committee  
13 of the hospital at which the child is a patient, and a written second  
14 opinion from a physician not affiliated with the hospital at which the  
15 child is a patient. All these documents shall be submitted to the  
16 court. The commissioner shall determine the department's recom-  
17 mendation to the court.

1 SECTION 86. Section 39½ of said Chapter 119, as so appearing,  
2 is hereby amended by striking out, in lines 1 and 2, the words "of  
3 social services".

1 SECTION 87. Section 39E of said Chapter 119, as so appearing,  
2 is hereby amended by striking out, in line 84, the words "social serv-  
3 ices" and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 88. Section 39G of said Chapter 119, as so appearing,  
2 is hereby amended by striking out, in line 26, the words "social serv-  
3 ices" and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 89. Section 39H of said Chapter 119, as so appearing,  
2 is hereby amended by striking out, in lines 13 and 14, the words

3 “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 90. Said Chapter 119 is hereby further amended by  
2 striking out Section 51A, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 51A. (a) If a mandated reporter, in his professional  
5 capacity, has reasonable cause to believe that a child under the age  
6 of 18 years is suffering physical or emotional injury resulting  
7 from:— (i) abuse inflicted upon him which causes harm or substan-  
8 tial risk of harm to the child’s health or welfare, including sexual  
9 abuse, (ii) neglect, including malnutrition, or (iii) physical depen-  
10 dence upon an addictive drug at birth, he shall immediately commu-  
11 nicate with the department orally and within 48 hours shall file a  
12 written report with the department detailing the suspected child  
13 abuse or neglect; but, if a mandated reporter is a member of the staff  
14 of a medical or other public or private institution, school or facility,  
15 the mandated reporter may instead notify the person or designated  
16 agent in charge of such institution, school or facility who shall then  
17 become responsible for notifying the department in the manner  
18 required by this section.

19 (b) Any hospital personnel preparing a 51A report may take, or  
20 cause to be taken, photographs of the areas of trauma visible on a  
21 child who is the subject of such report without the consent of the  
22 child’s parents or guardians. These photographs or copies thereof  
23 shall be sent to the department with the report.

24 (c) Any person who fails to comply with this section shall be pun-  
25 ished by a fine of not more than \$1,000. Any person who knowingly  
26 files a frivolous 51A report shall be punished by a fine of not more  
27 than \$1,000. Any mandated reporter who willfully fails to report  
28 serious child abuse or neglect shall be punished by a fine of up to  
29 \$10,000 or imprisonment in a house of correction for up to 2½ years  
30 or both; and the court or the appropriate licensing authority may sus-  
31 pend or revoke his state-issued professional license.

32 (d) Those mandated reporters who are licensed by the Common-  
33 wealth may complete training to recognize and report suspected  
34 child abuse or neglect.

35 (e) The 51A reports shall contain (i) the names and addresses of  
36 the child and his parents or other person responsible for his care, if

37 known:— (ii) the child's age; (iii) the child's sex; (iv) the nature and  
38 extent of the child's injuries, abuse, maltreatment, or neglect,  
39 including any evidence of prior injuries, abuse, maltreatment, or  
40 neglect; (v) the circumstances under which the person required to  
41 report first became aware of the child's injuries, abuse, maltreatment  
42 or neglect; (vi) whatever action, if any, was taken to treat, shelter, or  
43 otherwise assist the child; (vii) the name of the person or persons  
44 making such report; (viii) any other information which the person  
45 reporting believes might be helpful in establishing the cause of the  
46 injuries; (ix) the identity of the person or persons responsible for the  
47 neglect or injuries; and (x) other information required by the depart-  
48 ment.

49 (f) Any mandated reporter who has reasonable cause to believe  
50 that a child has died as a result of any of the conditions listed in sub-  
51 section (a) shall report the death to the department, the district  
52 attorney for the county in which the death occurred, and the medical  
53 examiners as required by Section 6 of Chapter 38. Any person who  
54 fails to make these reports shall be punished by a fine of not more  
55 than \$1,000.

56 (g) Any person may file a 51A report if he has reasonable cause  
57 to believe that a child is suffering from or has died as a result of  
58 abuse or neglect.

59 (h) No mandated reporter shall be liable in any civil or criminal  
60 action for filing a 51A report. No other person filing a 51A report  
61 shall be liable in any civil or criminal action by reason of such report  
62 if it was made in good faith; provided, however, that such person did  
63 not perpetrate or inflict said abuse or cause said neglect. Any person  
64 filing a 51A report may be liable in a civil or criminal action if the  
65 department or the district attorney determines that he may have per-  
66 petrated or inflicted the abuse or caused the neglect.

67 (i) No employer shall discharge, discriminate or retaliate against a  
68 mandated reporter who in good faith files a 51A report, testifies or is  
69 about to testify in any proceeding involving child abuse or neglect.  
70 Any employer who discharges, discriminates or retaliates against  
71 such a person shall be liable to such person for treble damages, costs  
72 and attorney's fees.

73 (j) Within 60 days of receiving a 51A report from a mandated  
74 reporter, the department shall notify him in writing of its determina-  
75 tion of the nature, extent and cause or causes of the injuries to the

76 child, and the services that the department intends to provide to the  
77 child or his family.

78 (k) Any privilege relating to confidential communications, estab-  
79 lished by Sections 135 to 135B, inclusive, of Chapter 112 or by Sec-  
80 tions 20A and 20B of Chapter 233, shall not prohibit the filing of a  
81 51A report or a care and protection petition filed under Section 24.  
82 Notwithstanding said Section 20A of said Chapter 233, a priest,  
83 rabbi, clergy member, ordained or licensed minister, leader of a  
84 church or religious body or accredited Christian Science practitioner  
85 shall report all cases of suspected abuse or neglect under this section,  
86 but need not report information solely gained in a confession or sim-  
87 ilarly confidential communication in other religious faiths. Nothing  
88 in the general laws shall modify or limit the duty of a priest, rabbi,  
89 clergy member, ordained or licensed minister, leader of a church or  
90 religious body or accredited Christian Science practitioner to report  
91 suspected child abuse or neglect under this section when the priest,  
92 rabbi, clergy member, ordained or licensed minister, leader of a  
93 church or religious body or accredited Christian Science practitioner  
94 is acting in some other capacity that would otherwise make him a  
95 reporter.

1 SECTION 91. Section 51A of said Chapter 119 is hereby  
2 amended by striking out subsection (d), as appearing in Section 90  
3 of this act, and inserting in place thereof the following subsection:—

4 (d) Those mandated reporters who are licensed by the Common-  
5 wealth shall complete training to recognize and report suspected  
6 child abuse or neglect.

1 SECTION 92. Said Chapter 119 is hereby further amended by  
2 striking out Section 51B, as so appearing, and inserting in place  
3 thereof the following section:—

4 Section 51B. (a) Upon receipt of a 51A report, the department  
5 shall investigate the suspected child abuse or neglect, provide a  
6 written evaluation of the household of the child, including the par-  
7 ents and home environment, and make a written determination about  
8 the safety and risk of the child and whether the suspected child abuse  
9 or neglect is substantiated.

10 If the department has reasonable cause to believe the child's  
11 health or safety is in immediate danger from further abuse and

12 neglect, the investigation and evaluation shall commence within 2  
13 hours of initial contact and a determination shall be made within 24  
14 hours; otherwise the investigation and evaluation shall commence  
15 within 2 working days of initial contact and a determination shall be  
16 made within 15 working days, unless a waiver has been approved by  
17 the area director or requested by law enforcement.

18 The investigation shall include:— (i) a home visit at which the  
19 child is viewed, if appropriate, (ii) a determination of the nature,  
20 extent and cause or causes of the injuries, (iii) the identity of the  
21 person or persons responsible therefor, (iv) the name, age and condi-  
22 tion of other children in the same household, (v) an evaluation of the  
23 parents and the home environment, and (vi) all other pertinent facts  
24 or matters. The department shall coordinate with other agencies to  
25 make all reasonable efforts to minimize the number of interviews of  
26 any potential victim of child abuse or neglect.

27 Upon completion of the investigation and evaluation, the depart-  
28 ment shall make a written determination about (i) the safety of and  
29 risk of physical or emotional injury to that child and any other chil-  
30 dren in the same household and (ii) whether the suspected child  
31 abuse or neglect is substantiated.

32 (b) If a child named in the 51A report is in an out-of-home place-  
33 ment and the suspected child abuse or neglect is substantiated, the  
34 department shall notify his parents that a 51A report was filed and  
35 has been substantiated by the department. If the child died or was  
36 seriously injured, the department shall notify the biological parents  
37 of other children in the same placement. The department shall con-  
38 sult with these parents in decisions about removal or further place-  
39 ment. These notifications and consultations shall not be required if  
40 the commissioner determines that they are not appropriate or in the  
41 best interests of the children.

42 (c) The department shall take a child into immediate temporary  
43 custody if it has reasonable cause to believe that the removal is nec-  
44 essary to protect the child from further abuse or neglect. If a child is  
45 taken into immediate temporary custody, the department shall make  
46 a written report stating the reasons for such removal and shall file a  
47 care and protection petition pursuant to Section 24 on the next court  
48 day;

49 (d) The department shall offer appropriate services to the family  
50 of any child which it has reasonable cause to believe is suffering

51 from any of the conditions described in the report to prevent further  
52 injury to the child, to safeguard his welfare, and to preserve and sta-  
53 bilize family life whenever possible. If the family declines or is  
54 unable to accept or to participate in the offered services, the depart-  
55 ment or any person may file a care and protection petition under  
56 Section 24.

57 (e) The department shall file in the central registry, established  
58 under Section 51F, a written report containing information sufficient  
59 to identify each child whose name is reported pursuant to Section  
60 51A or 51B. A notation shall be sent to the central registry whenever  
61 further reports on each such child are filed with the department. If  
62 the department determines during the initial screening period of an  
63 investigation that said report under Section 51A is frivolous, or other  
64 absolute determination that abuse or neglect has not taken place,  
65 then said report shall be declared as “allegation invalid”. If such  
66 reports are declared “allegation invalid”, the name of the child, or  
67 identifying characteristics relating to the child, or the names of his  
68 parents or guardian or any other person relevant to the report, shall  
69 not be placed in the central registry or in any other computerized  
70 program utilized in the department.

71 (f) The department shall utilize or purchase and utilize such pro-  
72 tective services of private and voluntary agencies as it determines  
73 necessary.

74 (g) The department shall promulgate regulations to implement the  
75 Sections 51A to 51F, inclusive.

76 (h) The department shall immediately notify and shall transmit  
77 copies of 51A reports and its written evaluations and written deter-  
78 minations to the district attorney for the county in which the child  
79 resides, to the district attorney for the county in which the suspected  
80 abuse or neglect occurred, to the local law enforcement authorities in  
81 the town in which the child resides, and to the local law enforcement  
82 in the town in which the suspected abuse or neglect has occurred, if  
83 the department has reasonable cause to believe:—

84 (1) that, as a result of abuse or neglect, a child has died or has suf-  
85 fered brain damage, loss or substantial impairment of a bodily func-  
86 tion or organ, substantial disfigurement, or serious physical injury,  
87 including, but not limited to, a fracture of any bone, a severe burn,  
88 an impairment of any organ, an injury requiring the child to be  
89 placed on life-support systems;

90 (2) that a child has been sexually assaulted, as set forth in Sec-  
91 tions 13B, 13H, 22, 22A, 23, 24, and 24B of Chapter 265 or Section  
92 35A of Chapter 272;

93 (3) that a child has been sexually exploited, which shall mean  
94 encouraging a child to engage in prostitution as defined in Sections  
95 4A and 4B of said Chapter 272 or in the obscene or pornographic  
96 photographing, filming, or depicting of a child as defined in Section  
97 29A of said Chapter 272; or

98 (4) any other disclosure of physical abuse involving physical evi-  
99 dence which may be destroyed, any current disclosure by the child  
100 of sexual assault, or the presence of physical evidence of sexual  
101 assault.

102 Within 45 days of the notification under the first paragraph, the  
103 department shall further notify the district attorney of the service  
104 plan, if any, developed for such child and his family.

105 No provision of Chapter 66A, Sections 135 to 135B, inclusive, of  
106 Chapter 112, or Sections 51E and 51F of this chapter relating to con-  
107 fidential data or confidential communications shall prohibit the  
108 department from making such notifications or from providing to the  
109 district attorney any information obtained pursuant to this section.  
110 No person providing notification or information to a district attorney  
111 pursuant to this section shall be liable in any civil or criminal action  
112 by reason of such action. Nothing herein shall be construed to pre-  
113 vent the department from notifying a district attorney relative to any  
114 incidents reported to the department pursuant to Section 51A or to  
115 limit the prosecutorial power of a district attorney.

116 (i) If the department substantiates a report alleging that abuse or  
117 neglect occurred at a facility operated by a person subject to licen-  
118 sure or approval under Section 10 of Chapter 28A, the department  
119 shall notify the department of early education and care in writing by  
120 transmitting a copy of the 51A report and its written evaluation and  
121 determination. The departments may coordinate their activities con-  
122 ducted under this section and paragraph (f) of said Section 10 of said  
123 Chapter 28A. No provision of Chapter 66A, Sections 135 to 135B,  
124 inclusive, of Chapter 112, or Sections 51E and 51F of this chapter,  
125 or any other provision of law, shall prohibit the department from  
126 transmitting a copy of the reports prepared under Sections 51A and  
127 51B to the department of early education and care, or prohibit both  
128 departments from conducting coordinated activities and sharing

129 information between both departments as herein provided, or from  
130 having its employees testify at administrative hearings held by said  
131 office in connection with matters about which said department has  
132 provided notice to said office under this section. If the department is  
133 made aware of information or circumstances indicating a licensing  
134 violation in any such facility, the department shall immediately  
135 notify the department of early education.

136 No provision of Chapter 66A, Sections 51E and 51F of this  
137 chapter, or any other provision of law shall prohibit said office from  
138 providing information to said department in connection with matters  
139 about which said department has provided notice to said office under  
140 this section.

141 (j) If the department substantiates a report alleging that abuse or  
142 neglect occurred at a facility owned, operated or funded, in whole or  
143 in part, by the department of mental health, the department of mental  
144 retardation, the department of public health, and the department of  
145 youth services, the department of children and families shall notify  
146 the affected department in writing by transmitting a copy of the 51A  
147 report and its written evaluation and written determination. The  
148 departments may coordinate their activities conducted under this  
149 section. No provision of Chapter 66A, Sections 135 to 135B, inclu-  
150 sive, of Chapter 112, and of Sections 51E and 51F of this chapter, or  
151 any other provision of law, shall prohibit the department of children  
152 and families from transmitting copies of 51A reports or its written  
153 evaluations and written determinations to any of these departments  
154 or from conducting coordinated activities and sharing information  
155 between these departments as herein provided, or from having its  
156 employees testify at administrative hearings held by any of these  
157 departments in connection with matters about which the department  
158 of children and families has provided notice to any of these depart-  
159 ments under this section.

160 (k) Notwithstanding any privilege created by statute or common  
161 law relating to confidential communications or any statute pro-  
162 hibiting the disclosure of information, any mandated reporter who  
163 has information which he believes might aid the department in deter-  
164 mining whether a child has been abused or neglected pursuant to an  
165 investigation under this section shall, if requested by the department,  
166 disclose such information relevant to the specific investigation to the  
167 department. Such statutory or common law privileges shall not pre-

168 clude the admission of any such information in any civil proceeding  
169 concerning abuse or neglect of a child, placement or custody of a  
170 child.

171 (l) No person required to provide such information pursuant to  
172 this section or permitted to disclose information pursuant to Section  
173 5A of Chapter 119A shall be liable in any civil or criminal action for  
174 providing such information.

175 (m) No employer shall discharge, discriminate or retaliate against  
176 a mandated reporter who in good faith provides such information,  
177 testifies or is about to testify in any proceeding involving child abuse  
178 or neglect; provided, however, that such person did not perpetrate or  
179 inflict such abuse or neglect. Any employer who discharges, dis-  
180 criminate or retaliates against such a person shall be liable to such  
181 person for treble damages, costs and attorney's fees.

182 (n) If the department determines that a 51A report is not substan-  
183 tiated, the department shall notify in writing any and all sources or  
184 recipients of information in connection with the investigation that  
185 the report of abuse or neglect has not been substantiated, unless the  
186 target of the investigation requests that such notification not occur.

1 SECTION 93. Said Chapter 119 is hereby amended by inserting  
2 after Section 51G the following section:—

3 Section 51H. Notwithstanding any law to the contrary, the depart-  
4 ment may send to or receive from any other state or country a pro-  
5 tective alert containing any information about a child related to a  
6 substantiated report of child abuse or neglect if the department rea-  
7 sonably believes that the child has been or will be transported to  
8 another state or country.

1 SECTION 94. Said Chapter 119 is hereby amended by striking  
2 out Section 63 and inserting in place thereof the following  
3 section:—

4 Any person who shall be found:— (i) to have caused, induced,  
5 abetted, or encouraged or contributed toward the delinquency of a  
6 child, (ii) to have acted in any way tending to cause or induce such  
7 delinquency, (iii) to have knowingly and willfully aided or abetted a  
8 child under the age of 17 years, or under the age of 18 years and in  
9 state custody, to violate an order of a juvenile court, or (iv) to have  
10 knowingly and willfully concealed or harbored a child who has

11 taken flight from the custody of the court, his parents, his legal  
12 guardian, the department of children and families or the department  
13 of youth services may be punished by a fine of not more than \$500  
14 or by imprisonment of not more than 1 year, or both. The court may  
15 release on probation under Section 87 of Chapter 276, subject to  
16 such orders as it may make as to future conduct tending to cause,  
17 induce or contribute to such delinquency, or it may suspend sentence  
18 under Section 1 of Chapter 279, or before trial, with the defendant's  
19 consent, it may allow the defendant to enter into a recognizance, in  
20 such penal sum as the court may fix, conditioned to comply with  
21 such terms as the court may order for the promotion of the future  
22 welfare of the child, and the said case may then be placed on file.  
23 The provisions for recognizance in Section 56 shall be applicable to  
24 cases arising hereunder. The divisions of the juvenile court depart-  
25 ment shall, within their respective territorial limits, have exclusive  
26 jurisdiction over complaints alleging violations of this section.

1 SECTION 95. Section 2 of Chapter 119A of the General Laws, as  
2 appearing in the 2006 Official Edition, is hereby amended by  
3 striking out, in line 21 and in lines 35 and 36, the words "social serv-  
4 ices" and inserting in place thereof, in each instance, the following  
5 words:— children and families.

1 SECTION 96. Section 3 of said Chapter 119A, as so appearing, is  
2 hereby amended by striking out, in line 2, the words "social serv-  
3 ices" and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 97. Section 5 of said Chapter 119A, as so appearing, is  
2 hereby amended by striking out, in line 23, the words "social serv-  
3 ices" and inserting in place thereof, in each instance the following  
4 words:— children and families.

1 SECTION 98. Section 5A of said Chapter 119A, as so appearing,  
2 is hereby amended by striking out, in lines 26 and 27, the words  
3 "social services" and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 99. Section 2 of Chapter 201 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 31, the  
3 words “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 100. Section 32F of Chapter 209 of the General Laws,  
2 as so appearing, is hereby amended by striking out, in line 17, in  
3 lines 28 and 29, and in line 42, the words “social services” and  
4 inserting in place thereof, in each instance, the following words:—  
5 children and families.

1 SECTION 101. Section 5 of Chapter 209C of the General Laws,  
2 as so appearing, is hereby amended by striking out, in line 9, lines  
3 13 and 14, and in line 54, the words “social services” and inserting  
4 in place thereof, in each instance, the following words:— children  
5 and families.

1 SECTION 102. Section 8 of said Chapter 209C, as so appearing,  
2 is hereby amended by striking out, in line 17, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 103. Section 9 of said Chapter 209C, as so appearing,  
2 is hereby amended by striking out, in line 67, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 104. Section 11 of said Chapter 209C, as so appearing,  
2 is hereby amended by striking out, in line 36, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 105. Section 13 of said Chapter 209C, as so appearing,  
2 is hereby amended by striking out, in lines 9, 13 and 15 the words  
3 “social services” and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 106. Section 16 of said Chapter 209C, as so appearing,  
2 is hereby amended by striking out, in line 44, the words “social serv-

3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 107. Section 2 of Chapter 210 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 16 and 17,  
3 the words “social services” and inserting in place thereof the  
4 following words:— children and families.

1 SECTION 108. Section 2A of said Chapter 210, as so appearing,  
2 is hereby amended by striking out, in lines 5 and 14, the words  
3 “social services” and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 109. Section 3 of said Chapter 210, as so appearing, is  
2 hereby amended by striking out, in lines 7 and 55, the words “social  
3 services” and inserting in place thereof, in each instance, the  
4 following words:— children and families.

1 SECTION 110. Section 4 of said Chapter 210, as so appearing, is  
2 hereby amended by striking out, in line 13, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 111. Section 4A of said Chapter 210, as so appearing,  
2 is hereby amended by striking out, in line 11, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 112. Section 5A of said Chapter 210, as so appearing,  
2 is hereby amended by striking out, in lines 2 and 3, in lines 39 and  
3 40 and line 52, the words “social services” and inserting in place  
4 thereof, in each instance, the following words:— children and fami-  
lies.

1 SECTION 113. Section 5E of said Chapter 210, as so appearing,  
2 is hereby amended by striking out, in line 1, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 114. Section 6 of said Chapter 210, as so appearing, is  
2 hereby amended by striking out, in line 21, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 115. Section 6C of said Chapter 210, as so appearing,  
2 is hereby amended by striking out, in lines 35 and 36, the words  
3 “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 116. Section 11A of said Chapter 210, as so appearing,  
2 is hereby amended by striking out, in line 2, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 117. Section 5 of Chapter 258C of the General Laws,  
2 as so appearing, is hereby amended by striking out, in lines 13 and  
3 14, the words “departments of social services and public welfare”  
4 and inserting in place thereof the following words:— department of  
5 children and families and the department of transitional assistance.

1 SECTION 118. Section 3 of Chapter 273 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in line 5, the words  
3 “social services” and inserting in place thereof the following  
4 words:— children and families.

1 SECTION 119. Section 18A of said Chapter 273, as so appearing,  
2 is hereby amended by striking out, in line 26, the words “social serv-  
3 ices” and inserting in place thereof the following words:— children  
4 and families.

1 SECTION 120. The name of the department of social services is  
2 hereby changed to the department of children and families.

1 SECTION 121. Notwithstanding Section 51B of Chapter 119 of  
2 the General Laws or any other general or special law to the contrary,  
3 the department of children and families may establish a pilot pro-  
4 gram of family engagement in child welfare practice.

5 The pilot program shall use a local unified entry point for (i)  
6 requests for voluntary services filed under Section 23 of Chapter 119  
7 of the General Laws, (ii) court referrals, including those for children  
8 in need of services filed under Section 39E of said Chapter 119, and  
9 (iii) reports of suspected child abuse or neglect filed under Section  
10 51A of said Chapter 119.

11 Upon entry of any such request, referral or report, the department  
12 shall have a period of initial engagement during which the request,  
13 referral or report shall be evaluated and a differential response, if  
14 any, shall be determined; but if the department has reasonable cause  
15 to believe the child's health or safety is in immediate danger from  
16 abuse or neglect, the department shall also view the child, conduct a  
17 safety assessment, and take any steps necessary to ensure the safety  
18 of the child. A rapid initial engagement for the latter circumstances  
19 shall commence within 2 hours and shall be completed within 36  
20 hours; all other initial engagements shall be completed within 3  
21 business days. The department shall determine whether the request,  
22 referral or report is appropriate for response and, if so, which differ-  
23 ential response is appropriate:— a protective response, a support and  
24 stabilization response or a community resource response.

25 A protective response shall be required if the department deter-  
26 mines that the child has been or is at risk of serious harm. The pro-  
27 tective response shall be conducted pursuant to said Section 51B,  
28 except that the investigation shall be completed within 15 business  
29 days of the differential response determination unless a waiver has  
30 been approved by the area director or requested by law enforcement.

31 A support and stabilization response shall require department con-  
32 tact with the child's family within 2 business days of the differential  
33 response determination and an initial assessment of the family  
34 within 30 business days of the determination. Such a response shall  
35 include at least 3 department visits with the child's family and may  
36 include the immediate provision of services.

37 A community resource response shall consist of providing infor-  
38 mation about and referral to community-based services. Such a  
39 response shall not include an investigation or a family assessment by  
40 the department.

41 After the completion of a protective response or a support and sta-  
42 bilization response and based on a family assessment, the depart-  
43 ment may determine that sustained engagement with the child's

44 family is necessary. During sustained engagement, family assess-  
45 ments shall be conducted every 6 months until the department termi-  
46 nates its sustained engagement.

47 The pilot program may be implemented in 4 to 8 area offices  
48 selected by the department. The pilot program shall include an inde-  
49 pendent evaluation, including the impact on children and families,  
50 the effect on racial disproportionality and disparity, the associated  
51 costs, any recommendations for statewide implementation, and shall  
52 survey children, families, and staff involved with the pilot program.

53 The pilot program shall include the use of (i) evidence-based  
54 safety and risk assessment tools, (ii) family assessments, (iii)  
55 resource and service planning activities, (iv) culturally competent  
56 staffing, resources and practices, and (v) the use of social worker  
57 teams based on caseload standards recommended by the Child Wel-  
58 fare League of America, Inc.

59 The department shall report the results of the evaluation and leg-  
60 islative recommendations, if appropriate, no later than January 1,  
61 2009. The report shall be filed with the clerks of the house and the  
62 senate, the house and senate committees on ways and means, the  
63 committee on children, families and persons with disabilities, the  
64 speaker of the house, the president of the senate and the governor.

1 SECTION 122. Section 91 shall take effect as of January 1, 2009.