

HOUSE No. 4333

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 1, 2007.

The committee on Ways and Means, to whom was referred the Bill relative to child abuse and neglect (House, No. 4191), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4333).

For the committee,

ROBERT A. DELEO.

House bill No. 4333, as amended and passed to be engrossed by the House. November 1, 2007.

The Commonwealth of Massachusetts

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
4 words:— , 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
3 of 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
6 the governor. The cabinet shall consist of the secretary of adminis-
7 tration and finance, the secretary of child welfare, the secretary of
8 elder affairs, the secretary of energy and environmental affairs, the
9 secretary of health and human services, the secretary of housing
10 and economic 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
14 designate.

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:— chil-
4 dren 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:— chil-
4 dren and families.

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

1 SECTION 6. Section 178K of said Chapter 6, as so appearing,
2 is hereby amended by striking out, in line 112, the words “social
3 services” and inserting in place thereof the following words:—
4 children 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:— chil-
4 dren 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 preven-
5 tion board, in this section and in Section 203 referred to as the
6 board, which shall consist of between 25 and 50 members,
7 including (a) the following 10 ex-officio members:— the secretary
8 of child welfare or a designee, the secretary of health and human
9 services or a designee; the secretary of housing and economic
10 development or a designee, the commissioner of early education
11 and care or a designee, the commissioner of children and families
12 or a designee, the commissioner of mental health or a designee,
13 the commissioner of youth services or a designee, the commis-
14 sioner of education or a designee, the commissioner of public
15 health or a designee, the commissioner of transitional assistance
16 or a designee, (b) the following 12 persons from the private sector
17 appointed by the governor from recommendations by the board:—
18 1 parent, 1 pediatrician, 1 child psychiatrist, 1 early childhood
19 education specialist, 1 mental health specialist in child abuse, 1

20 district attorney, 1 teacher, 1 judge, 1 member of the Massachu-
21 setts bar, 1 criminal justice professional, 1 social worker from a
22 private child welfare agency and 1 representative of a private
23 charitable foundation, and (c) between 3 and 28 additional mem-
24 bers appointed by the governor from recommendations by the
25 board. These individuals shall be appointed based upon their
26 knowledge of and interest in child abuse prevention. The governor
27 shall seek to provide diverse geographical representation, with
28 particular attention given to appointing members who reflect the
29 ethnic and racial diversity of the Commonwealth's children, youth
30 and families, and shall assure that each of the Commonwealth's 6
31 human service regions, established by the executive office of
32 health and human services, is represented by 1 of the appoint-
33 ments.

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

38 The governor shall designate a chairman from among 1 of the
39 appointed members of the board. The board may elect other offi-
40 cers and committees as it deems appropriate.

41 The board shall employ an executive director, assistant execu-
42 tive director, secretary, and any other staff the board deems neces-
43 sary in order to carry out the duties and responsibilities assigned
44 to the board. Expenditures for salaries and for other administrative
45 functions shall be approved by the board within the limitations
46 prescribed by Section 50 of Chapter 10.

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

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

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

62 Notwithstanding any general or special law to the contrary, the
63 office of children, youth and family services within the executive
64 office of health and human services shall facilitate the implemen-
65 tation of this section and Section 203 and of the Children's Trust
66 Fund, established by Section 50 of Chapter 10, but the office shall
67 not 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
3 clause (10) and inserting in place thereof the following clause:—

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

1 SECTION 10. Section 16 of Chapter 6A of the General Laws,
2 as so appearing, is hereby amended by striking out, in line 26, the
3 words "social services" and inserting in place thereof the
4 following 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,
2 as 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 prose-
6 cution, including how many are prosecuted, the results of those
7 prosecutions, and the rationale for decisions not to prosecute. The
8 report shall be filed with the clerks of the house and the senate,
9 the house and senate committees on ways and means, the com-
10 mittee on children, families and persons with disabilities, the com-
11 mittee on the judiciary, the speaker of the house, the president of
12 the senate and the governor.

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

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

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

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

1 SECTION 17. Section 14 of Chapter 17 of the General Laws,
2 as so appearing, is hereby amended by striking out, in line 7, the
3 words “social services” and inserting in place thereof the
4 following words:— children and families.

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

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

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

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

9 (2) protective services for children, unmarried mothers, the
10 aging 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
14 children, 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
18 disabled 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 fami-
23 lies, 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
27 in 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
33 who because of domestic violence, homelessness, or other situa-
34 tions require temporary shelter and assistance;
- 35 (15) information and referral services; and
- 36 (16) services for families and individuals in emergency and
37 transitional housing.
- 38 (17) Comprehensive Youth Development services.

1 SECTION 21. Said Chapter 18B is hereby further amended by
2 striking out Section 3, as so appearing, and inserting in place
3 thereof the following section:—

4 Section 3. (a) The department shall provide comprehensive,
5 area-based child welfare services. These services shall be orga-
6 nized by regions and areas consistent with those established by the
7 secretary of health and human services as provided in Section 16
8 of Chapter 6A.

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

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

22 (2) the aging and other adults in need of social, legal, health,
23 rehabilitation, employment, or other services.

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

26 (c) The department shall:—

27 (1) formulate the policies, procedures and rules necessary for
28 the full and efficient implementation of programs authorized by

29 the laws of the Commonwealth and federal laws in the area of
30 services for children and families;

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

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

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

37 (5) collaborate with other departments of the Commonwealth
38 and with voluntary or private agencies or organizations to assure
39 efficient and high-quality social and educational services for per-
40 sons who are unable for social or economic reasons to provide
41 such services for themselves;

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

1 SECTION 22. Section 6 of said Chapter 18B, as so appearing,
2 is hereby amended by striking out, in line 2, the words “social
3 services” and inserting in place thereof the following words:—
4 children 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:—
4 The position of commissioner shall be classified under Section
5 45 of Chapter 30 and the salary shall be determined under Section
6 46C of said Chapter 30 and said commissioner shall devote full
7 time to the duties of the office.

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

1 SECTION 25. Said Section 6A of said Chapter 18B, as so
2 appearing, is hereby further amended by striking out, in line 42,

3 the 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
3 thereof the following section:—

4 Section 7. (a) The commissioner shall establish reasonable
5 caseload rates and shall report these caseload rates to the general
6 court in 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
9 data, client data, and program data necessary for the ongoing
10 administration or effective service delivery. The information
11 system shall include, but not be limited to, a service plan for each
12 client, with provisions for periodic review thereof. The commis-
13 sioner shall promulgate such rules and regulations as are deemed
14 necessary to ensure the confidentiality of client data collected by
15 the department.

16 (c) The commissioner shall develop and implement a compre-
17 hensive monitoring and evaluation system for all services under
18 the control of the department and shall collect the necessary pro-
19 gram and fiscal data annually.

20 (d) The commissioner shall conduct an annual needs assess-
21 ment for all services under the control of the department.

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

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

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

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

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

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

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

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

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

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

3 the last sentence and inserting in place thereof the following 2
4 sentences:—

5 The position of assistant commissioner shall be classified under
6 Section 45 of Chapter 30 and the salary shall be determined under
7 Section 46C of said Chapter 30. Assistant commissioners shall
8 devote full time to the duties of the office.

1 SECTION 29. Section 12 of said Chapter 18B, as so appearing,
2 is hereby amended by striking out the first paragraph and inserting
3 in 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 appropria-
6 tion, such other employees as the commissioner may deem neces-
7 sary.

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

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

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

18 All social workers shall have bachelors' degree at the time of
19 appointment. All supervisory social workers shall have masters'
20 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
6 area board, which shall be an agency of the Commonwealth and
7 shall serve in the department. The area board shall consist of 21
8 members, who shall be appointed by the commissioner for terms
9 of 3 years. Two-thirds of the members shall live within the area
10 for which they are appointed, and the remaining members shall
11 either live or work in the area. At least 6 members shall be con-
12 sumers of services provided by the department. Not more than 2
13 members shall be selected from private providers within the area.
14 One member at the time of appointment shall be a member of the
15 community mental health area board established under Section 14
16 of Chapter 19, 1 member at the time of appointment shall be a
17 person knowledgeable in the field of mental retardation, 2 mem-
18 bers at the time of their appointment shall be members of the local
19 councils for children established under Section 7 of Chapter 28A,
20 2 members at the time of their appointment shall be members of
21 the financial or business professions with special fiscal or bud-
22 getary skills, and 2 members shall at the time of their appointment
23 be members of the community service area boards established
24 under Section 7 of Chapter 18.

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

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

1 SECTION 32. Section 14 of said Chapter 18B, as so appearing,
2 is 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,
2 is hereby amended by inserting after the word “services”, in lines
3 5 and 13, the following words:— for children and families.

1 SECTION 34. Section 16 of said Chapter 18B, as so appearing,
2 is hereby amended by inserting after the word “services”, in line
3 5, the 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
5 in any facility owned or rented by the Commonwealth other than
6 state schools, hospitals or prisons, in any area if space is available
7 or suitable for the purpose and shall, if feasible, locate such cen-
8 ters in a facility utilized by an agency of the Commonwealth pro-
9 viding human services. If suitable space is not available the
10 department may acquire adequate space for such centers by
11 renting, leasing or other available means. Each area shall be
12 responsible for the delivery of services within its area. The centers
13 shall be of sufficient number and so located as to be readily acces-
14 sible to the people 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
8 such rules and regulations as the comptroller may determine. The
9 department shall make a monthly report to the comptroller of the
10 amount of funds disbursed by the department subsequent to the
11 previous monthly report and shall certify to the comptroller that
12 such disbursements are substantiated by detailed records and
13 vouchers retained in the custody of the department.

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

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

3 Section 23. The commissioner shall report semi-annually on (i)
4 the status of high-risk children and its efforts to identify such chil-
5 dren and address their needs for child protection; (ii) the status of
6 racial disproportionality and disparity of its client population and
7 its efforts, including the use of culturally competent staffing,
8 resources and practices, to reduce overrepresentation of children
9 of color in the child welfare system; (iii) the status of its procure-
10 ment of services; and (iv) the status of children who, due to their
11 age, are transitioning out of the child welfare system. The reports
12 shall be filed with the clerks of the house and the senate, the
13 house and senate committees on ways and means, the committee
14 on children, families and persons with disabilities, the speaker of
15 the house, 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
6 have the following meanings, unless the context clearly requires
7 otherwise:—

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
13 Section 2.

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

16 Section 3. There shall be a 21-member board on child abuse
17 and 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
20 criminal history systems board, the undersecretary of criminal jus-
21 tice from the executive office of public safety, the commissioner
22 of early education and care, the commissioner of education, the
23 commissioner of mental health, the commissioner of mental retar-
24 dation, the commissioner of public health, the commissioner of
25 children and families, the commissioner of transitional assistance,
26 the commissioner of youth services, the deputy commissioner of
27 the child support enforcement division within the department of
28 revenue, the president of the Massachusetts district attorneys asso-
29 ciation, the commissioner of probation, the chief counsel of the
30 committee for public counsel services, the chief justice of the
31 superior court department, the chief justice of the juvenile court
32 department, the chief justice of the probate and family court
33 department, the executive director of the child abuse prevention
34 board, and 2 persons appointed by the governor.

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

44 Section 5. The secretary, in consultation with the board, shall
45 formulate a comprehensive plan, with periodic benchmarks and
46 cost estimates, for a coordinated, system-wide response to child
47 abuse and neglect, including related mental health, substance
48 abuse and domestic violence issues. The comprehensive plan shall
49 look forward 5 years or more, shall be updated annually to plan
50 for the ensuing 5-year period, shall assess previous efforts and, if
51 appropriate, shall include legislative recommendations, such as
52 changes to the parameters of the comprehensive plan.

53 The plan shall be filed annually with the clerks of the house and
54 the senate, the house and senate committees on ways and means,

55 the committee on children, families and persons with disabilities,
56 the speaker of the house, the president of the senate and the gov-
57 ernor.

58 The plan shall examine the status of and address the following
59 issues:— (1) Racial disproportionality and disparity of the client
60 population of the department of children and families, including
61 the effectiveness of reforms designed to address overrepresenta-
62 tion of children of color within the department's client population;

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

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

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

92 (5) Family engagement model, including coordination with the
93 department of children and families for (i) the evaluation of the

94 model and its use of differential response and risk assessment
95 tools to determine how effectively findings of abuse or neglect are
96 made, (ii) an estimation of the cost to implement the model
97 statewide, (iii) an examination of the combination of departmental
98 functions such that an individual social worker investigates,
99 assesses and provides ongoing case management, particularly as
100 that combination impacts incidents requiring specialized investi-
101 gatory skills, (iv) an examination of delays in the fair hearing
102 process, and (v) periodic examination of time limits allowed for
103 screenings, investigations and assessments;

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

112 (7) Law enforcement involvement, including the coordination
113 with the department of children and families and law enforcement
114 for (i) an investigation of how effectively the department and law
115 enforcement collaborate, and where there is room for improve-
116 ment or coordination of resources, (ii) the development of proto-
117 cols for mandatory reporting of physical abuse to local law
118 enforcement and district attorneys and (iii) the potential alignment
119 with efforts to prevent or prosecute domestic violence and with
120 the procedures used in the investigation of sexual abuse, such as
121 the sexual abuse intervention network and the sexual assault nurse
122 examiners program;

123 (8) Schools of social work, including (i) an examination of how
124 effectively social work and related degree programs teach child
125 welfare practice, (ii) an examination of opportunities for greater
126 cooperation between the department of children and families and
127 higher education to study child welfare issues, (iii) a determina-
128 tion of the capacity of public and private schools to meet
129 increased demand for social work and related degrees, including
130 concentrations in child welfare, and (iv) the establishment of a
131 timeline for inclusion of child welfare concentrations in bache-

132 lers' and masters' degree programs at public institutions of higher
133 education;

134 (9) Social worker qualifications, including an examination of
135 the infrastructure needed to support a more qualified workforce,
136 such as full implementation of proposed programs at the child
137 welfare institute and the transferability of certificate coursework
138 to other graduate programs;

139 (10) Confidentiality, including research of legal and ethical
140 considerations to be addressed if information sharing in cases of
141 child abuse and neglect is expanded;

142 (11) Health service needs of the client population and health
143 consultation needs of the staff of the department of children and
144 families, including (i) an examination of the ongoing need for
145 physical and behavioral health services and consultation,
146 including those related to mental health and substance abuse treat-
147 ment, (ii) improved coordination and consultation by the depart-
148 ment of children and families, the department of mental health
149 and the department of public health, (iii) a critique of proposed
150 best-practice models for more effective client behavioral health
151 services and (iv) improved oversight and peer review of the safety
152 and effectiveness of the use of psychotropic drugs by children
153 involved with the department of children and families or the
154 department of youth services;

155 (12) Critiques of the department of children and families,
156 including (i) the potential alignment of a internal or external audit
157 unit with the department's continuous quality improvement and
158 quality service review initiatives and (ii) dissemination of the
159 findings of these critiques to policy makers within and outside of
160 the department;

161 (13) Criminal offender record information reviews, including
162 an examination of the use of these reviews in out-of-home, kin-
163 ship or foster, placements and a determination of areas for
164 improved efficiency and equality;

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

169 (15) The court-approved remedial plan in the case of Rosie D.
170 v. Romney, et al., 410 F.Supp.2d 18 (NO. CIV.A.01-30199-MAP),

171 including an examination of the impact on child welfare efforts of
172 the implementation of the remedial plan regarding the early and
173 periodic screening, diagnostic, and treatment services provision
174 and reasonable promptness provision of the federal Medicaid law,
175 42 U.S.C. §§ 1396a;

176 (16) MassHealth and the Massachusetts Behavioral Health Part-
177 nership, including monitoring of the agencies' oversight of med-
178 ical and behavioral health expenditures on behalf of the client
179 population of the department of children and families; and

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

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

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

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

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

1 SECTION 43. Section 10 of Chapter 28A of the General Laws,
2 as so appearing, is hereby amended by striking out, in line 49, the
3 words “social services” and inserting in place thereof the
4 following 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
5 notice transmitted to the office by the department of children and
6 families under subsection (i) of Section 51B of Chapter 119. Such
7 investigation and evaluation shall determine whether the facility
8 being operated by a person subject to licensure under this section
9 is being operated in compliance with this chapter and with the
10 rules and regulations established under paragraph (c). If, during
11 the course of any such investigation or licensing study conducted
12 by the office, any agent or employee of the office receives or dis-
13 covers information concerning the occurrence of child abuse or
14 neglect, such agent or that employee shall make a report to the
15 department of children and families, under Section 51A of said
16 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
3 20, 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
2 Laws, as so appearing, is hereby amended by striking out, in line

3 93, the words “social services” and inserting in place thereof the
4 following words:— children and families.

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

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

1 SECTION 51. Section 13 of said Chapter 46, as so appearing,
2 is 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,
2 as so appearing, is hereby amended by striking out, in line 34, the
3 words “social services” and inserting in place thereof the
4 following words:— children and families.

1 SECTION 53. Section 10 of Chapter 66 of the General Laws,
2 as so appearing, is hereby amended by striking out, in lines 64 and
3 65, 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,
2 as so appearing, is hereby amended by striking out the first para-
3 graph and inserting in place thereof the following paragraph:—

4 The school committee of each city, town or regional school
5 district shall inform teachers, administrators, and other profes-
6 sional staff of reporting requirements for child abuse and neglect
7 under Section 51A of Chapter 119 and the reporting requirements
8 for fires 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
3 and 15, the words “social services” and inserting in place thereof,
4 in each instance, the following words:— children and families.

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

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

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

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

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

1 SECTION 61. Section 12B of said Chapter 71B, as so
2 appearing, is hereby amended by striking out, in line 12, the
3 words “social services” and inserting in place thereof the
4 following words:— children and families.

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

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

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

1 SECTION 65. Section 15A of Chapter 75 of the General Laws,
2 as 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
5 families, the department of early education and care.

1 SECTION 66. Section 7 of Chapter 76 of the General Laws, as
2 so appearing, is hereby amended by striking out, in lines 4 and 15,
3 the 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,
2 as so appearing, is hereby amended by striking out, in lines 18 to
3 19, 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
3 of 2006, and inserting in place thereof the following section:—

4 Section 24L. (a) The department of public health shall collabo-
5 rate with the department of children and families, the child abuse
6 prevention board and staff of the Children's Trust Fund, other
7 state agencies serving families and children, health care providers,
8 law enforcement personnel, human service providers, and child
9 advocacy organizations to develop and implement a comprehen-
10 sive, statewide shaken baby syndrome prevention initiative to
11 reduce death and disability resulting from shaken baby syndrome.
12 The initiative shall be subject to appropriation and shall include,
13 but not be 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 devel-
18 oped by the department of public health describing the dangers of
19 shaking infants and children and the risks associated with shaken
20 baby syndrome. Education and materials shall include, but not be
21 limited to, information concerning the medical and physical
22 effects of shaking infants and children, appropriate methods of
23 handling infants and children, methods of preventing and reducing
24 the risk of shaking infants and children, and the availability of
25 community-based programs and other resources to prevent shaken
26 baby syndrome;

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

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

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

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

43 (c) The department of public health may adopt regulations to
44 implement this section. The department shall consult with a
45 statewide advisory group of interested parties before implementa-
46 tion of the initiative and the regulations adopted under this
47 section. The department shall, in consultation with the department
48 of children and families and the child abuse prevention board and
49 staff of the Children’s Trust Fund, conduct an annual evaluation of
50 the shaken baby syndrome prevention initiative and shall report
51 annually to the governor concerning the activities undertaken as
52 part of the initiative and the results of the annual evaluation. A
53 copy of the report shall be filed with the clerks of the house of
54 representatives and the senate no later than February of each year.

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

5 The division shall, in accordance with this section, accept for
6 referral children determined to be in need of services under
7 Section 39G of Chapter 119 and referred to the division by the
8 department of children and families, hereinafter referred to as the
9 department, or the juvenile court.

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

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

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

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

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
17 parental care in the event of the absence, temporary or permanent
18 inability or unfitness of parents to provide care and protection for
19 their children.

20 The health and safety of the child shall be of paramount con-
21 cern and shall include the long-term well-being of the child.

22 In all matters and decisions by the department of children and
23 families, the policy of the department, as applied to children in its
24 care and protection or children who receive its services, shall be
25 to define best interests of the child as that which shall include, but
26 not be limited to, considerations of precipitating factors and pre-
27 vious conditions leading to any decisions made in proceedings
28 related to the past, current and future status of the child, the cur-
29 rent state of the factors and conditions together with an assess-
30 ment of the likelihood of their amelioration or elimination; the
31 child’s fitness, readiness, abilities and developmental levels; the
32 particulars of the service plan designed to meet the needs of the
33 child within his current placement whether with the child’s family
34 or in a substitute care placement and whether such service plan is

35 used by the department or presented to the courts with written
36 documentation; and the effectiveness, suitability and adequacy of
37 the services provided and of placement decisions, including the
38 progress of the child or children therein. The department's consid-
39 erations of appropriate services and placement decisions shall be
40 made in a timely manner in order to facilitate permanency plan-
41 ning for the child.

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

52 For purposes of this section, the words "all department pro-
53 ceedings" shall include departmental hearings and proceedings but
54 shall not include a court proceeding even when the department is
55 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
6 context clearly otherwise requires:—

7 "51A report", a report filed pursuant to Section 51A that details
8 suspected child abuse or neglect.

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

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

11 "Child in need of services", a child below the age of 17 who
12 persistently runs away from the home of his parents or legal
13 guardian, or persistently refuses to obey the lawful and reasonable
14 commands of his parents or legal guardian, thereby resulting in
15 said parent's or guardian's inability to adequately care for and
16 protect said child, or a child between the ages of 6 and 16 who

17 persistently and willfully fails to attend school or persistently vio-
18 lates the lawful and reasonable regulations of his school.

19 “Custody”, shall include the powers to:—

20 1) to determine the child’s place of abode, medical care and
21 education;

22 (2) to control visits to the child; and

23 (3) to consent to enlistments, marriages and other contracts oth-
24 erwise requiring parental consent. If the parent or guardian objects
25 to the carrying out of any power conferred by this paragraph, that
26 parent or guardian may take application to the committing court
27 and the court shall review and make an order on the matter.

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

47 “Mandated reporter”, a person who is a (i) physician, medical
48 intern, hospital personnel engaged in the examination, care or
49 treatment of persons, medical examiner, psychologist, emergency
50 medical technician, dentist, nurse, chiropractor, podiatrist,
51 optometrist, osteopath, allied mental health and human services
52 professional as licensed under Section 165 of Chapter 112, drug
53 and alcoholism counselor, psychiatrist, clinical social worker; (ii)
54 who is a public or private school teacher, educational adminis-
55 trator, guidance or family counselor, day care worker, person paid

56 to care for or work with a child in any public or private facility, or
57 home or program funded by the Commonwealth or licensed under
58 Chapter 28A that provides day care or residential services to chil-
59 dren or that provides the services of child care resource and
60 referral agencies, voucher management agencies or family day
61 care systems or child care food programs, licensor of the depart-
62 ment of early education and care, school attendance officer; (iii)
63 probation officer, clerk-magistrate of the district courts, parole
64 officer, social worker, foster parent, firefighter, policeman, (iv)
65 priest, rabbi, clergy member, ordained or licensed minister, leader
66 of any church or religious body, accredited Christian Science
67 practitioner, person performing official duties on behalf of a
68 church or religious body that are recognized as the duties of a
69 priest, rabbi, clergy, ordained or licensed minister, leader of any
70 church or religious body, accredited Christian Science practi-
71 tioner, or person employed by a church or religious body to super-
72 vise, educate, coach, train or counsel a child on a regular basis or
73 (v) person in charge of a medical or other public or private institu-
74 tion, school or facility or his designated agent.

75 “Parent”, means mother or father, unless specified parent as
76 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
9 agent who is refused entry or hindered in the removal of such
10 child may make complaint, on oath, to a justice of the court
11 having jurisdiction; who may thereupon issue a warrant autho-
12 rizing the agent to obtain sufficient aid and, at any reasonable
13 time, enter the building designated, and any part thereof, to inves-
14 tigate the treatment and condition of a child found there and to
15 remove the child as herein provided. The department shall take
16 the child temporarily into its care, immediately notify the child’s
17 parent or legal guardian and, upon request, discharge the child to

18 its parent or legal guardian. If the parent or legal guardian is
19 unable or refuses to make suitable provisions for the child, the
20 department shall make lawful provisions for the child's care under
21 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
5 standards for the placement of children under 18 years of age in
6 foster care. The guidelines and standards shall be reviewed by the
7 executive office of health and human services.

8 (b) The department shall have the responsibility, including
9 financial responsibility, for providing foster care for children
10 through its own resources or by use of appropriate voluntary agen-
11 cies, according to the rules and regulations of the department, in
12 the following instances:—

13 (1) If a child, a parent, a guardian, or any person acting on
14 behalf of a child applies for foster care, the department may
15 accept the child who in its judgment is in need of foster care. Such
16 acceptance shall entail no abrogation of parental rights or respon-
17 sibilities, but the department may accept from parents a temporary
18 delegation of certain rights and responsibilities necessary to pro-
19 vide the foster care for a period of time under conditions agreed
20 upon by both and terminable by either. If the department deter-
21 mines that continued placement beyond 6 months is required for
22 reasons unrelated to parental unfitness and the parent consents to
23 continued placement, the department may file a petition for care
24 and responsibility in the probate court on behalf of a child
25 accepted into foster care. At the initial hearing on the petition, the
26 court shall determine whether continued placement with the
27 department is in the child's best interests and shall issue its deter-
28 mination, including the rationale therefor, in written form. The
29 allowance of the petition shall not abrogate a parent's right to
30 make decisions on behalf of the child, but the department may
31 accept from the parent a temporary delegation of certain rights
32 and responsibilities necessary to continue to provide foster care
33 for the child under conditions agreed upon by both and terminable
34 by either. Notwithstanding any general or special law to the con-

35 trary, a permanency hearing shall be held within 60 days of the
36 transfer of responsibility by order of the probate court or within
37 12 months of initial placement into foster care with the depart-
38 ment, whichever date is later. The hearing shall be conducted as
39 provided in Section 29B.

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

44 (3) If a child under 18 years of age is without proper guardian-
45 ship due to death, unavailability, incapacity or unfitness of the
46 parent or guardian or on the consent of the parent or parents, the
47 department may seek a probate court order to accept responsibility
48 for the child. Such responsibility shall include the right to:—

49 (i) determine the child's abode, medical care and education;

50 (ii) control visits to the child;

51 (iii) consent to enlistments, marriages and other contracts
52 requiring parental consent, and

53 (iv) consent to adoption only when it is expressly included in
54 the order of the court. In making an order, the probate court shall
55 consider the Section 29C and shall make the written certification
56 and determinations required by said Section 29C. If a child is in
57 the care of the department of mental health or the department of
58 mental retardation, the responsibility enumerated above and all
59 rights therein contained shall continue in the department. If a
60 mentally retarded person who has been declared mentally incom-
61 petent was the responsibility of the department prior to reaching
62 the age of 18, the department shall continue to be responsible until
63 the person is declared to be no longer legally incompetent.

64 (4) The department shall accept on commitment from the juve-
65 nile court any child under 18 years of age declared in need of
66 foster care under Section 26 or declared to be a child in need of
67 services under Section 39G.

68 (5) Any child under 18 years who is left in any place and who
69 is seemingly without a parent or legal guardian available shall be
70 immediately reported to the department, which shall proceed to
71 arrange care for such child temporarily and shall forthwith cause
72 search to be made for parent or guardian. If parent or guardian
73 cannot be found or is unable or refuses to make suitable provi-

74 sions for the child, the department shall make such lawful provi-
75 sion as seems for the best interest of such child under this chapter.

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

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

99 (c) The department may pay a sum not exceeding \$1,100 for the
100 funeral and burial of a child in its care; provided that the cost of
101 funeral and burial does not exceed \$1,500 and there are insuffi-
102 cient resources to pay for the cost of the funeral and burial. Any
103 resources of the child shall be deducted from the maximum cost of
104 the funeral and burial allowable hereunder and the difference, sub-
105 ject to the limitation set forth in this paragraph, shall be paid by
106 the department.

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

110 In the case of an emergency placement, the department, the
111 department of youth services, the department of mental health,
112 other departments of the Commonwealth responsible for the

113 placement of foster children, or placement agency shall immedi-
114 ately provide a brief verbal or written statement describing the
115 child's outstanding problem behaviors and mental and emotional
116 problems and shall provide the child profile form within 10 days
117 to the foster parents.

118 The department shall develop a child profile form to be used by
119 all other departments of the Commonwealth or placement agen-
120 cies that shall contain the child profile and any other relevant
121 information necessary to the care, well-being, protection, and par-
122 enting of the child by the foster parents, including, but not be lim-
123 ited to:—

124 i) a history of the child's previous placements and reasons for
125 placement changes,

126 (ii) a history of the child's problem behaviors and mental and
127 emotional problems,

128 (iii) educational status and school related problem behaviors,
129 and

130 (iv) any other psychological, educational, medical, and health
131 information necessary.

132 The child profile form shall immediately be prepared by the
133 department of the Commonwealth which is granted care and cus-
134 tody of the child at the time such care and custody is granted.

135 (e) The department may continue to have the responsibility for
136 any person provided for in this section under 21 years for the pur-
137 poses of specific educational or rehabilitative programs, under
138 conditions agreed upon by both the department and the person and
139 terminable by either.

140 (f) The department shall obtain and provide to the IV-D agency,
141 as set forth in Chapter 119A, an assignment of support rights on
142 behalf of each child receiving foster care maintenance payments
143 under Title IV, Part E, of the Social Security Act. The department
144 shall be subrogated to the rights of each such child and shall
145 obtain and provide to the IV-D agency information that may be
146 reasonably necessary to enforce the department's right, including,
147 but not limited to the following information: the child's name,
148 date of birth, place of birth, Social Security number, address and
149 benefit level and, if known, each parent's name, date of birth,
150 place of birth, Social Security number, most recent address and
151 most recent employer. The department shall immediately notify

152 the IV-D agency when a child whose rights to support are subro-
153 gated no longer receives foster care maintenance payments pur-
154 suant to said Title IV, Part E, of the Social 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 juris-
6 diction that the child: (a) is without necessary and proper physical
7 or educational care and discipline; (b) is growing up under condi-
8 tions or circumstances damaging to the child's sound character
9 development; (c) lacks proper attention of the parent, guardian
10 with care and custody or custodian; or (d) has a parent, guardian
11 or custodian who is unwilling, incompetent or unavailable to pro-
12 vide any such care, discipline or attention.

13 The court may issue a precept to bring the child before the
14 court, and shall issue a notice to the department and summonses to
15 both parents of the child to show cause why the child should not
16 be committed to the custody of the department or why any other
17 appropriate order should not be made. The summonses shall
18 include notice that the court may dispense with the right of the
19 parents to notice of or consent to the adoption, custody or
20 guardianship or any other disposition of the child named therein if
21 it finds that the child is in need of care and protection and that the
22 best interests of the child would be served by any such disposi-
23 tion. Notice shall be by personal service upon the parent. If the
24 identity or whereabouts of a parent is unknown, the petitioner
25 shall cause notice in a form prescribed by the court to be served
26 upon such parent by publication once in each of 3 successive
27 weeks in any newspaper as the court may order. If no parent can
28 be found after reasonable search, a summons shall be issued to the
29 child's legal guardian, if any, known to reside within the Com-
30 monwealth and, if none, to the person with whom such child last
31 resided, if known. If the court is satisfied after the petitioner testi-
32 fies under oath that there is reasonable cause to believe that (i) the
33 child is suffering from serious abuse or neglect or is in immediate
34 danger of serious abuse or neglect and (ii) that immediate removal
35 of the child is necessary to protect the child from serious abuse or

36 neglect, the court may issue an emergency order transferring cus-
37 tody of the child for up to 72 hours to the department or to a
38 licensed child care agency or individual described in clause (2) of
39 the second paragraph of Section 26. Upon entry of the order,
40 notice to appear before the court shall be given to either parents,
41 both parents, a guardian with care and custody or another custo-
42 dian. At that time, the court shall determine whether temporary
43 custody shall continue beyond 72 hours until a hearing on the
44 merits of the petition for care and protection is concluded before
45 the court. The court shall also consider the provisions of Section
46 29C and shall make the written certification and determinations
47 required by said Section 29C.

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

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

56 If the parents or guardians consent, a child may be committed
57 to 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
8 in the care of some suitable person or licensed agency providing
9 foster care for children or may commit the child to the custody of
10 the department.

11 If the court commits a child to the custody of the department,
12 the court shall consider the provisions of Section 29C and shall
13 make the written certification and determinations required by said
14 Section 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
5 appears that the precept and summonses have been duly and
6 legally served, that said notice has been issued to the department
7 and said report is received, the court may excuse the child from
8 the hearing and shall proceed to hear the evidence.

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

21 (1) It may permit the child to remain with his parents, guardian,
22 or other custodian, including supervision as directed by the court
23 for 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
26 other person or agency designated by the court, is found by the
27 court to be qualified to give care to the child;

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

31 (iii) the department of children and families.

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

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

37 In determining whether such an order should be made, the stan-
38 dards set forth in Section 3 of said Chapter 210 concerning an
39 order to dispense with the need for consent to adoption of a child

40 shall be applied. If the child who is the subject of the petition is
41 under the age of 12, and if the court adjudicates the child to be in
42 need of care and protection under this section, the court shall enter
43 an order dispensing with the need for consent to adoption upon
44 finding that the best interests of the child, as defined in paragraph
45 (c) of said Section 3 of said Chapter 210, will be served thereby.
46 The entry of such an order shall have the effect of terminating the
47 rights of a person named therein to receive notice of or to consent
48 to any legal proceeding affecting the custody, guardianship, adop-
49 tion or other disposition of the child named therein.

50 The department shall file a petition or a motion to amend a peti-
51 tion to dispense with parental consent to adoption, custody,
52 guardianship or other disposition of the child if:—

53 (i) the child has been abandoned;

54 (ii) the parent has been convicted by a court of competent juris-
55 diction of the murder or voluntary manslaughter of another child
56 of such parent, of aiding, abetting, attempting, conspiring or solici-
57 titing to commit such murder or voluntary manslaughter or of an
58 assault constituting a felony which resulted in serious bodily
59 injury to the child or to another child of such parent; or

60 (iii) the child has been in foster care in the custody of the state
61 for 15 of the immediately preceding 22 months. Under this para-
62 graph, a child shall be considered to have entered foster care on
63 the earlier of:— a) the date of the first judicial finding, pursuant to
64 Section 24 or this section, that the child has been subjected to
65 abuse or neglect; or (b) the date that is 60 days after the date on
66 which the child is removed from the home. Under this section,
67 “serious bodily injury” shall mean bodily injury which involves a
68 substantial risk of death, extreme physical pain, protracted and
69 obvious disfigurement or protracted loss or impairment of the
70 function of a bodily member, organ or mental faculty. The depart-
71 ment shall concurrently identify, recruit, process, and approve a
72 qualified family for adoption.

73 The department need not file such a motion or petition to dis-
74 pense with parental consent to the adoption, custody, guardianship
75 or other disposition of the child if the child is being cared for by a
76 relative or the department has documented in the case plan a com-
77 pelling reason for determining that such a petition would not be in
78 the best interests of the child or that the family of the child has not

79 been provided, consistent with the time period in the case plan,
80 such services as the department deems necessary for the safe
81 return of the child to the child's home if reasonable efforts as set
82 forth in Section 29C are required to be made with respect to the
83 child.

84 Notwithstanding the foregoing, the following circumstances
85 shall constitute grounds for dispensing with the need for consent
86 to adoption, custody, guardianship or other disposition of the
87 child:—

88 (i) the child has been abandoned;

89 (ii) the parent has been convicted by a court of competent juris-
90 diction of the murder or voluntary manslaughter of another child
91 of such parent, of aiding, abetting, attempting, conspiring or solici-
92 iting to commit such murder or voluntary manslaughter or of an
93 assault constituting a felony which resulted in serious bodily
94 injury to the child or to another child of the parent.

95 (5) The court may order the parents or parent of said child to
96 reimburse the Commonwealth or other agency for care in appro-
97 priate cases.

98 (c) On any petition filed in any court pursuant to this section,
99 the department, parents, person having legal custody of, counsel
100 for a child, the probation officer, guardian or guardian ad litem
101 may petition the court not more than once every 6 months for a
102 review and redetermination of the current needs of such child
103 whose case has come before the court, except that any person
104 against whom a decree to dispense with consent to adoption has
105 been entered pursuant to clause (4) of the subsection (b) shall not
106 have such right of petition for review and redetermination. Unless
107 the court enters written findings setting forth specific extraordi-
108 nary circumstances that require continued intervention by the
109 court, the court shall enter a final order of adjudication and per-
110 manent disposition, no later than 15 months after the date the case
111 was first filed in court; provided, however, that the date by which
112 a final order of adjudication and permanent disposition shall be
113 entered may be extended once for a period not to exceed 3
114 months; and, provided, further, that said extension shall only be
115 granted if the court makes written finding that the parent has made
116 consistent and goal-oriented progress likely to lead to the child's
117 return to the parent's care and custody. Findings in support of such

118 final order of adjudication and permanent disposition shall be
119 made in writing within a reasonable time of the court's order. The
120 court shall not lose jurisdiction over the petition by reason of its
121 failure to enter a final order and the findings in support thereof
122 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 reg-
5 istration of interest for foster care placement, the department shall
6 conduct a review of any misdemeanor offense discovered through
7 a criminal offender record information search conducted pursuant
8 to Section 172B of Chapter 6 in order to assist the department in
9 accurately evaluating whether the mere existence of the offense
10 has a substantial effect on the applicant's current or future ability
11 to assume and carry out the responsibilities of a foster parent in
12 such a manner that the rights of the child to sound health and
13 normal physical, mental, spiritual and moral development are
14 insured. The review shall include, but not be limited to, a review
15 of the following:—

16 (i) the time that has elapsed between the date of the offense and
17 the filing of the registration of interest,

18 (ii) the seriousness and specific circumstances of the offense,

19 (iii) the number and nature of other offenses,

20 (iv) the age of the offender at the time of the offense,

21 (v) the findings and recommendations of the family resource
22 worker assigned by the department to discuss the facts sur-
23 rounding the misdemeanor with the applicant,

24 (vi) the recommendations given to the family resource worker
25 by personal or employment references chosen by the applicant or
26 received otherwise,

27 (vii) the current and future needs of the child to be placed and
28 the probable effect that the misdemeanor would have on the appli-
29 cant's ability to fulfill those needs,

30 (viii) any reports or recommendations received by the depart-
31 ment from the applicant's parole or probation officer should 1
32 have been assigned,

33 (ix) a copy of the police report pertaining to the offense in
34 question if obtainable within a reasonable period of time or dis-
35 cussions with a police officer familiar with the facts surrounding
36 the offense and

37 (x) discussions with the child to be placed regarding his current
38 and past relationship with the applicant, unless these discussions
39 are inappropriate. Nothing in this section shall be construed to
40 affect the discretion of the department to approve or reject the reg-
41 istration of interest for foster care placement.

1 SECTION 81A. Said Chapter 119 is hereby further amended by
2 inserting after Section 26A the following section:—

3 Section 26B. Whenever the child is placed in family foster care,
4 the court shall ensure that grandparents, upon their request, have
5 access to reasonable visitation rights with the child who is the
6 subject of the petition and that the department establishes a
7 schedule for such visitation unless it is determined by the court or
8 the department that such visitation is not in the child's best inter-
9 ests. In determining the best interests of the child, the court or the
10 department shall consider the goal of the service plan and the rela-
11 tionship between the grandparents and the child's parents or legal
12 guardian. Upon recommendation by the department or on its own
13 accord, the court may establish reasonable conditions governing
14 grandparent visitations, including but not limited to requiring that
15 the grandparents be restrained from revealing the whereabouts of
16 the child's placement. Grandparents who are denied visitation
17 rights by the department may appeal through the department's fair
18 hearing process.

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

28 The courts shall determine, at the time of the initial placements
29 wherein children and their siblings are separated through place-

30 ments in foster, pre-adoptive, or adoptive care, that such visitation
31 rights be implemented through a schedule of visitations or super-
32 vised visitations, to be arranged and monitored through the appro-
33 priate public or private agency, and with the participation of the
34 foster, pre-adoptive or adoptive parents, or extended family mem-
35 bers, and the child, if reasonable, and other parties who are rele-
36 vant to the preservation of sibling relationships and visitation
37 rights.

38 Periodic reviews shall evaluate the effectiveness and appropri-
39 ateness of the visitations between these siblings.

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

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

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

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

19 (b) Actions under this section to establish support of a child
20 may be commenced by a parent, whether a minor or not; by the
21 child; by the child's guardian, next of kin or other person standing
22 in a parental relationship to the child; by the authorized agent of
23 the department of children and families or any agency licensed
24 under Chapter 28A provided that the child is in their custody or is

25 or was a recipient of any type of public assistance by the IV-D
26 agency as set forth in Chapter 119A on behalf of the department
27 of transitional assistance, the department of children and families,
28 the division of medical assistance, or any other public assistance
29 program of the Commonwealth. In the event that someone other
30 than the IV-D agency commences the action, if the parent or child
31 is or was a recipient of any type of public assistance, the court
32 shall notify said IV-D agency of the pendency of the action and
33 said IV-D agency shall be permitted to intervene in the action.

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

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

42 (e) The person chargeable with support shall comply with said
43 order, or judgment until the same is dismissed or expires. When
44 an action brought under Section 24 of this chapter is dismissed or
45 a final order of commitment is entered, the order or judgment of
46 support shall expire 6 months after the judgment of dismissal or
47 final order of commitment. At the time of such dismissal or final
48 order of commitment, the court shall notify the parties and the IV-
49 D agency, as set forth in Chapter 119A, of the expiration date of
50 the support 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 para-
5 graph C of subsection (2) of Section 23 or Sections 24 to 27,
6 inclusive, or Section 29B, the child shall have and be informed of
7 the right to counsel at all hearings and that the court shall appoint
8 counsel for the child if the child is not able to retain counsel.

9 Whenever the department or a licensed child placement agency
10 is a party to child custody proceedings, the parent, guardian or
11 custodian of the child (i) shall have and be informed of the right to
12 counsel at all such hearings, including proceedings under Sections

13 5 and 14 of Chapter 201, and that the court shall appoint counsel
14 if he is financially unable to retain counsel and (ii) shall have and
15 be informed of the right to a service plan or case plan for the child
16 and his family which complies with applicable state and federal
17 laws and regulations for such plans. The probate and family court
18 department of the trial court shall establish procedures for (i) noti-
19 fying the parent, guardian or custodian of these rights and (ii)
20 appointing counsel for an indigent parent, guardian or custodian
21 within 14 days of a licensed child placement agency filing or
22 appearing as a party in any such action. The department or agency
23 shall provide a copy of the service or case plan to the parent,
24 guardian or custodian of the child and to the attorneys for all par-
25 ties appearing in the proceeding within 45 days of the department
26 or agency filing an appearance in such proceeding. Thereafter, any
27 party may have the original or changed plan introduced as evi-
28 dence, and with the consent of all parties the plan shall be filed
29 with the court. Notwithstanding this section, the court may make
30 such temporary orders as may be necessary to protect the child
31 and society.

32 The department, upon its request, shall be represented by the
33 district 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,
5 grants custody or transfers responsibility for a child to the depart-
6 ment or its agent, the court shall certify that the continuation of
7 the child in his home is contrary to his best interests and shall
8 determine whether the department or its agent, as appropriate, has
9 made reasonable efforts prior to the placement of a child with the
10 department to prevent or eliminate the need for removal from the
11 home; but, if a child has been placed voluntarily with the depart-
12 ment by the parent under clause (1) of subsection (b) of Section
13 23 and the parent consents to continued placement pursuant to a
14 petition filed under said clause (1) or clause (2) of said subsection
15 (b) of said Section 23, the court shall determine at an initial
16 hearing only whether continued placement is in the child's best
17 interests. Except as provided herein, if a court has previously

18 committed, granted custody or transferred responsibility for a
19 child to the department or its agent, the court shall determine not
20 less than annually whether the department or its agent has made
21 reasonable efforts to make it possible for the child to return safely
22 to his parent or guardian. In making any determination, the health
23 and safety of the child shall be of paramount concern.

24 Reasonable efforts by the department prior to removal of a
25 child from the home or to return the child to a parent or guardian
26 shall not be required if the court finds that:—

27 (i) the child has been abandoned as defined in Section 3 of
28 Chapter 210;

29 (ii) the parent's consent to adoption of a sibling of the child was
30 dispensed with under Section 26 or under said Section 3 of said
31 Chapter 210, or the parent's rights were involuntarily terminated
32 in a case involving a sibling of the child;

33 (iii) the parent has been convicted of 1 of the following crimes
34 by a court of competent jurisdiction:— (a) murder or voluntary
35 manslaughter of another child of the parent or aiding, abetting,
36 attempting, conspiring or soliciting to commit such a murder or
37 voluntary manslaughter; or (b) an assault constituting a felony
38 which resulted in serious bodily injury to the child or another
39 child of the parent; or

40 (iv) a parent has subjected the child to aggravated circum-
41 stances consisting of murder of another parent of the child in the
42 presence of the child or by subjecting the child or other children
43 in the home to sexual abuse or exploitation or severe or repetitive
44 conduct of a physically or emotionally abusive nature. For the
45 purposes of this section, conduct of an “emotionally abusive
46 nature” shall mean any conduct causing an impairment to or dis-
47 order of the intellectual or psychological capacity of a child as
48 evidenced by observable and substantial reduction in the child's
49 ability to function within a normal range of performance and
50 behavior. For the purposes of this section, “serious bodily injury”
51 shall mean bodily injury which involves a substantial risk of
52 death, extreme physical pain, protracted and obvious disfigure-
53 ment or protracted loss or impairment of the function of a bodily
54 member, organ or mental faculty.

55 If a court has determined at a permanency hearing convened
56 pursuant to Section 29B, that reasonable efforts to safely return

57 the child to his parent or guardian are inconsistent with the perma-
58 nency plan for the child or if a court has determined that reason-
59 able efforts are not required as set forth herein, the court shall
60 determine at least annually thereafter whether the department has
61 made reasonable efforts to place the child in a timely manner in
62 accordance with the permanency plan determined and reviewed
63 under Section 29B.

64 The court shall make the certification and determinations
65 required under this section in written form, which shall include
66 the basis for the certification and determinations. A determination
67 by the court that reasonable efforts were not made shall not pre-
68 clude the court from making any appropriate order conducive to
69 the child's best 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,
5 except those related to court orders to not resuscitate or to with-
6 draw life-sustaining medical treatment, shall be closed to the
7 general public and it shall be unlawful to publish the names of
8 persons before the court in any hearing provided for therein.

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
12 treating physician and a written recommendation from the ethics
13 committee of the hospital at which the child is a patient, and a
14 written second opinion from a physician not affiliated with the
15 hospital at which the child is a patient. All these documents shall
16 be submitted to the court. The commissioner shall determine the
17 department's recommendation to the court.

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

1 SECTION 87. Section 39E of said Chapter 119, as so
2 appearing, is hereby amended by striking out, in line 84, the

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

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

1 SECTION 89. Section 39H of said Chapter 119, as so
2 appearing, is hereby amended by striking out, in lines 13 and 14
3 and in line 23, the words “social services” and inserting in place
4 thereof in each instance the following words:— children and fami-
lies.

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:—

8 (i) abuse inflicted upon him which causes harm or substantial
9 risk of harm to the child’s health or welfare, including sexual
10 abuse,

11 (ii) neglect, including malnutrition, or

12 (iii) physical dependence upon an addictive drug at birth, he
13 shall immediately communicate with the department orally and
14 within 48 hours shall file a written report with the department
15 detailing the suspected child abuse or neglect; but, if a mandated
16 reporter is a member of the staff of a medical or other public or
17 private institution, school or facility, the mandated reporter may
18 instead notify the person or designated agent in charge of such
19 institution, school or facility who shall then become responsible
20 for notifying the department in the manner required by this
21 section.

22 (b) Any hospital personnel preparing a 51A report may take, or
23 cause to be taken, photographs of the areas of trauma visible on a
24 child who is the subject of such report without the consent of the

25 child's parents or guardians. These photographs or copies thereof
26 shall be sent to the department with the report.

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

36 (d) Those mandated reporters who are licensed by the Com-
37 monwealth may complete training to recognize and report sus-
38 pected child abuse or neglect.

39 (e) The 51A reports shall contain (i) the names and addresses of
40 the child and his parents or other person responsible for his care,
41 if known:— (ii) the child's age; (iii) the child's sex; (iv) the nature
42 and extent of the child's injuries, abuse, maltreatment, or neglect,
43 including any evidence of prior injuries, abuse, maltreatment, or
44 neglect; (v) the circumstances under which the person required to
45 report first became aware of the child's injuries, abuse, maltreat-
46 ment or neglect; (vi) whatever action, if any, was taken to treat,
47 shelter, or otherwise assist the child; (vii) the name of the person
48 or persons making such report; (viii) any other information which
49 the person reporting believes might be helpful in establishing the
50 cause of the injuries; (ix) the identity of the person or persons
51 responsible for the neglect or injuries; and (x) other information
52 required by the department.

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

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

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

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

78 (j) Within 60 days of receiving a 51A report from a mandated
79 reporter, the department shall notify him in writing of its determi-
80 nation of the nature, extent and cause or causes of the injuries to
81 the child, and the services that the department intends to provide
82 to the child or his family.

83 (k) Any privilege relating to confidential communications,
84 established by Sections 135 to 135B, inclusive, of Chapter 112 or
85 by Sections 20A and 20B of Chapter 233, shall not prohibit the
86 filing of a 51A report or a care and protection petition filed under
87 Section 24. Notwithstanding said section 20A of said Chapter 233,
88 a priest, rabbi, clergy member, ordained or licensed minister,
89 leader of a church or religious body or accredited Christian Sci-
90 ence practitioner shall report all cases of suspected abuse or
91 neglect under this section, but need not report information solely
92 gained in a confession or similarly confidential communication in
93 other religious faiths. Nothing in the general laws shall modify or
94 limit the duty of a priest, rabbi, clergy member, ordained or
95 licensed minister, leader of a church or religious body or accred-
96 ited Christian Science practitioner to report suspected child abuse
97 or neglect under this section when the priest, rabbi, clergy
98 member, ordained or licensed minister, leader of a church or reli-
99 gious body or accredited Christian Science practitioner is acting in
100 some other capacity that would otherwise make him a 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 subsec-
4 tion:—

5 (d) Those mandated reporters who are licensed by the Com-
6 monwealth shall complete training to recognize and report sus-
7 pected 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
8 about the safety and risk of the child and whether the suspected
9 child abuse 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
14 24 hours; otherwise the investigation and evaluation shall com-
15 mence within 2 business days of initial contact and a determina-
16 tion shall be made within 15 business days, unless a waiver has
17 been approved by the area director or requested by law enforce-
18 ment.

19 The investigation shall include:—

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

31 Upon completion of the investigation and evaluation, the
32 department shall make a written determination about (i) the safety
33 of and risk of physical or emotional injury to that child and any
34 other children in the same household and (ii) whether the sus-
35 pected child abuse or neglect is substantiated.

36 (b) If a child named in the 51A report is in an out-of-home
37 placement and the suspected child abuse or neglect is substanti-
38 ated, the department shall notify his parents that a 51A report was
39 filed and has been substantiated by the department. If the child
40 died or was seriously injured, the department shall notify the bio-
41 logical parents of other children in the same placement. The
42 department shall consult with these parents in decisions about
43 removal or further placement. These notifications and consulta-
44 tions shall not be required if the commissioner determines that
45 they are not appropriate or in the best interests of the children.

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

53 (d) The department shall offer appropriate services to the
54 family of any child which it has reasonable cause to believe is suf-
55 fering from any of the conditions described in the report to pre-
56 vent further injury to the child, to safeguard his welfare, and to
57 preserve and stabilize family life whenever possible. If the family
58 declines or is unable to accept or to participate in the offered serv-
59 ices, the department or any person may file a care and protection
60 petition under Section 24.

61 (e) The department shall file in the central registry, established
62 under Section 51F, a written report containing information suffi-
63 cient to identify each child whose name is reported pursuant to
64 Section 51A or 51B. A notation shall be sent to the central reg-
65 istry whenever further reports on each such child are filed with the
66 department. If the department determines during the initial
67 screening period of an investigation that said report under Section
68 51A is frivolous, or other absolute determination that abuse or
69 neglect has not taken place, then said report shall be declared as

70 “allegation invalid”. If such reports are declared “allegation
71 invalid”, the name of the child, or identifying characteristics
72 relating to the child, or the names of his parents or guardian or
73 any other person relevant to the report, shall not be placed in the
74 central registry or in any other computerized program utilized in
75 the department.

76 (f) The department shall utilize or purchase and utilize such
77 protective services of private and voluntary agencies as it deter-
78 mines necessary.

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

81 (h) The department shall immediately notify and shall transmit
82 copies of 51A reports and its written evaluations and written
83 determinations to the district attorney for the county in which the
84 child resides, to the district attorney for the county in which the
85 suspected abuse or neglect occurred, to the local law enforcement
86 authorities in the town in which the child resides, and to the local
87 law enforcement in the town in which the suspected abuse or
88 neglect has occurred, if the department has reasonable cause to
89 believe:—

90 (1) that, as a result of abuse or neglect, a child has died or has
91 suffered brain damage, loss or substantial impairment of a bodily
92 function or organ, substantial disfigurement, or serious physical
93 injury, including, but not limited to, a fracture of any bone, a
94 severe burn, an impairment of any organ, an injury requiring the
95 child to be placed on life-support systems;

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

99 (3) that a child has been sexually exploited, which shall mean
100 encouraging a child to engage in prostitution as defined in Sec-
101 tions 4A and 4B of said Chapter 272 or in the obscene or porno-
102 graphic photographing, filming, or depicting of a child as defined
103 in Section 29A of said Chapter 272; or

104 (4) any other disclosure of physical abuse involving physical
105 evidence which may be destroyed, any current disclosure by the
106 child of sexual assault, or the presence of physical evidence of
107 sexual assault.

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

111 No provision of Chapter 66A, Sections 135 to 135B, inclusive,
112 of Chapter 112, or Sections 51E and 51F of this chapter relating to
113 confidential data or confidential communications shall prohibit
114 the department from making such notifications or from providing
115 to the district attorney any information obtained pursuant to this
116 section. No person providing notification or information to a dis-
117 trict attorney pursuant to this section shall be liable in any civil or
118 criminal action by reason of such action. Nothing herein shall be
119 construed to prevent the department from notifying a district
120 attorney relative to any incidents reported to the department pur-
121 suant to Section 51A or to limit the prosecutorial power of a dis-
122 trict attorney.

123 (i) If the department substantiates a report alleging that abuse
124 or neglect occurred at a facility operated by a person subject to
125 licensure or approval under Section 10 of Chapter 28A, the
126 department shall notify the department of early education and care
127 in writing by transmitting a copy of the 51A report and its written
128 evaluation and determination. The departments may coordinate
129 their activities conducted under this section and paragraph (f) of
130 said Section 10 of said Chapter 28A. No provision of Chapter
131 66A, Sections 135 to 135B, inclusive, of Chapter 112, or Sections
132 51E and 51F of this chapter, or any other provision of law, shall
133 prohibit the department from transmitting a copy of the reports
134 prepared under Sections 51A and 51B to the department of early
135 education and care, or prohibit both departments from conducting
136 coordinated activities and sharing information between both
137 departments as herein provided, or from having its employees tes-
138 tify at administrative hearings held by said office in connection
139 with matters about which said department has provided notice to
140 said office under this section. If the department is made aware of
141 information or circumstances indicating a licensing violation in
142 any such facility, the department shall immediately notify the
143 department of early education.

144 No provision of Chapter 66A, Sections 51E and 51F of this
145 chapter, or any other provision of law shall prohibit said office
146 from providing information to said department in connection with

147 matters about which said department has provided notice to said
148 office under this section.

149 (j) If the department substantiates a report alleging that abuse
150 or neglect occurred at a facility owned, operated or funded, in
151 whole or in part, by the department of mental health, the depart-
152 ment of mental retardation, the department of public health, and
153 the department of youth services, the department of children and
154 families shall notify the affected department in writing by trans-
155 mitting a copy of the 51A report and its written evaluation and
156 written determination. The departments may coordinate their
157 activities conducted under this section. No provision of Chapter
158 66A, Sections 135 to 135B, inclusive, of Chapter 112, and of Sec-
159 tions 51E and 51F of this chapter, or any other provision of law,
160 shall prohibit the department of children and families from trans-
161 mitting copies of 51A reports or its written evaluations and
162 written determinations to any of these departments or from con-
163 ducting coordinated activities and sharing information between
164 these departments as herein provided, or from having its
165 employees testify at administrative hearings held by any of these
166 departments in connection with matters about which the depart-
167 ment of children and families has provided notice to any of these
168 departments under this section.

169 (k) Notwithstanding any privilege created by statute or
170 common law relating to confidential communications or any
171 statute prohibiting the disclosure of information, any mandated
172 reporter who has information which he believes might aid the
173 department in determining whether a child has been abused or
174 neglected pursuant to an investigation under this section shall, if
175 requested by the department, disclose such information relevant to
176 the specific investigation to the department. Such statutory or
177 common law privileges shall not preclude the admission of any
178 such information in any civil proceeding concerning abuse or
179 neglect of a child, placement or custody of a child.

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

184 (m) No employer shall discharge, discriminate or retaliate
185 against a mandated reporter who in good faith provides such

186 information, testifies or is about to testify in any proceeding
187 involving child abuse or neglect; provided, however, that such
188 person did not perpetrate or inflict such abuse or neglect. Any
189 employer who discharges, discriminates or retaliates against such
190 a person shall be liable to such person for treble damages, costs
191 and attorney's fees.

192 (n) If the department determines that a 51A report is not sub-
193 stantiated, the department shall notify in writing any and all
194 sources or recipients of information in connection with the inves-
195 tigation that the report of abuse or neglect has not been substanti-
196 ated, unless the target of the investigation requests that such
197 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
4 department may send to or receive from any other state or country
5 a protective alert containing any information about a child related
6 to a substantiated report of child abuse or neglect if the depart-
7 ment reasonably believes that the child has been or will be trans-
8 ported to 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:—

5 (i) to have caused, induced, abetted, or encouraged or con-
6 tributed toward the delinquency of a child,

7 (ii) to have acted in any way tending to cause or induce such
8 delinquency,

9 (iii) to have knowingly and willfully aided or abetted a child
10 under the age of 17 years, or under the age of 18 years and in state
11 custody, to violate an order of a juvenile court, or

12 (iv) to have knowingly and willfully concealed or harbored a
13 child who has taken flight from the custody of the court, his par-
14 ents, his legal guardian, the department of children and families or
15 the department of youth services may be punished by a fine of not
16 more than \$500 or by imprisonment of not more than 1 year, or
17 both. The court may release on probation under Section 87 of

18 Chapter 276, subject to such orders as it may make as to future
19 conduct tending to cause, induce or contribute to such delin-
20 quency, or it may suspend sentence under Section 1 of Chapter
21 279, or before trial, with the defendant's consent, it may allow the
22 defendant to enter into a recognizance, in such penal sum as the
23 court may fix, conditioned to comply with such terms as the court
24 may order for the promotion of the future welfare of the child, and
25 the said case may then be placed on file. The provisions for recog-
26 nizance in Section 56 shall be applicable to cases arising here-
27 under. The divisions of the juvenile court department shall, within
28 their respective territorial limits, have exclusive jurisdiction over
29 complaints alleging violations of this section.

1 SECTION 95. Section 2 of Chapter 119A of the General Laws,
2 as 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
4 services" and inserting in place thereof, in each instance, the
5 following words:— children and families.

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

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

1 SECTION 98. Section 5A of said Chapter 119A, as so
2 appearing, is hereby amended by striking out, in lines 26, 27 and
3 84, the words "social services" and inserting in place thereof, in
4 each instance, the following words:— children and families.

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

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

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

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

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

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

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

1 SECTION 106. Section 16 of said Chapter 209C, as so
2 appearing, is hereby amended by striking out, in line 44, the
3 words “social services” and inserting in place thereof the
4 following words:— children and families.

1 SECTION 107. Section 2 of Chapter 210 of the General Laws,
2 as so appearing, is hereby amended by striking out, in lines 16 and

3 17, 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
2 appearing, is hereby amended by striking out, in lines 5 and 14,
3 the words “social services” and inserting in place thereof, in each
4 instance, the following words:— children and families.

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

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

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

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

1 SECTION 113. Section 5E of said Chapter 210, as so
2 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 114. Section 6 of said Chapter 210, as so appearing,
2 is hereby amended by striking out, in line 21, the words “social
3 services” and inserting in place thereof the following words:—
4 children and families.

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

1 SECTION 116. Section 11A of said Chapter 210, as so
2 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 117. Section 5 of Chapter 258C of the General
2 Laws, as so appearing, is hereby amended by striking out, in lines
3 13 and 14, the words “departments of social services and public
4 welfare” and inserting in place thereof the following words:—
5 department of children and families and the department of transi-
6 tional assistance.

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

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

1 SECTION 120. The name of the department of social services
2 is 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 con-
3 trary, and consistent with any relevant collective bargaining agree-
4 ment the department of children and families may establish a pilot
5 program of family engagement in child welfare practice. The
6 department shall select 4 to 8 area offices in which to implement
7 the pilot program. Each office shall then be divided into a control
8 group and a differential response group, with each group using

9 social worker teams based on caseload standards recommended by
10 the Child Welfare League of America, Inc.

11 The differential response group shall use a local unified entry
12 point for (i) requests for voluntary services filed under Section 23
13 of Chapter 119 of the General Laws, (ii) court referrals, including
14 those for children in need of services filed under Section 39E of
15 said Chapter 119, and (iii) reports of suspected child abuse or
16 neglect filed under Section 51A of said Chapter 119.

17 Upon entry of any such request, referral or report, the depart-
18 ment shall have a period of initial engagement during which the
19 request, referral or report shall be evaluated and a differential
20 response, if any, shall be determined; but if the department has
21 reasonable cause to believe the child's health or safety is in imme-
22 diate danger from abuse or neglect, the department shall also view
23 the child, conduct a safety assessment, and take any steps neces-
24 sary to ensure the safety of the child. A rapid initial engagement
25 for the latter circumstances shall commence within 2 hours and
26 shall be completed within 36 hours; all other initial engagements
27 shall be completed within 3 business days. The department shall
28 determine whether the request, referral or report is appropriate for
29 response and, if so, which differential response is appropriate: a
30 protective response, a support and stabilization response or a com-
31 munity resource response.

32 A protective response shall be required if the department deter-
33 mines that the child has been or is at risk of serious harm. The
34 protective response shall be conducted pursuant to said Section
35 51B, except that the investigation shall be completed within 15
36 business days of the differential response determination unless a
37 waiver has been approved by the area director or requested by law
38 enforcement.

39 A support and stabilization response shall require department
40 contact with the child's family within 2 business days of the dif-
41 ferential response determination and an initial assessment of the
42 family within 30 business days of the determination. Such a
43 response shall include at least 3 department visits with the child's
44 family and may include the immediate provision of services.

45 A community resource response shall consist of providing
46 information about and referral to community-based services. Such

47 a response shall not include an investigation or a family assess-
48 ment by the department.

49 After the completion of a protective response or a support and
50 stabilization response and based on a family assessment, the
51 department may determine that sustained engagement with the
52 child's family is necessary. During sustained engagement, family
53 assessments shall be conducted every 6 months until the depart-
54 ment terminates its sustained engagement.

55 The differential response group shall use (i) evidence-based
56 safety and risk assessment tools, (ii) family assessments, (iii)
57 resource and service planning activities, (iv) culturally competent
58 staffing, resources and practices.

59 (c) The pilot program shall include an independent evaluation,
60 including the impact on children and families, the effect on racial
61 disproportionality and disparity, the associated costs, any recom-
62 mendations for statewide implementation, and shall survey chil-
63 dren, families, and staff involved with the pilot program.

64 (d) The department shall report the results of the evaluation and
65 legislative recommendations, if appropriate, no later than January
66 1, 2009. The report shall be filed with the clerks of the house and
67 the senate, the house and senate committees on ways and means,
68 the committee on children, families and persons with disabilities,
69 the speaker of the house, the president of the senate and the gov-
70 ernor.

1 SECTION 122. Section 91 shall take effect as of January 1,
2 2009.