

# SENATE, No. 2570

## The Commonwealth of Massachusetts



IN THE YEAR OF TWO THOUSAND AND SEVEN

### AN ACT REGARDING FAMILIES AND CHILDREN ENGAGED IN SERVICES

*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.** The General Laws as appearing in the 2004 official edition are hereby amended  
2   by adding after chapter 6A, section 16G the following new section:  
3   Section 16H.   Community-based services for families and children  
4   1. *Whereas*, families in the commonwealth whose children are truant, runaway, and acting in a  
5   fashion that interferes with their parent's ability to adequately care for and protect said children  
6   are families in crisis; and  
7   *Whereas*, the issues facing said children and families are complex and the services which would  
8   best assist such families are not always available from a single agency or department of the  
9   commonwealth and the collaboration among multiple public and private agencies and offices is  
10  required to ensure that all children and families receive the services they need to succeed; and

11 *Whereas*, the current efforts to help said children and families lack accountability and  
12 consistency; and

13 *Whereas*, services are not consistently available in all communities;

14 *Therefore*, it shall be the policy of the Commonwealth to develop a flexible, consistent,  
15 accountable system of community-based programs to assist said children and families.

16 2. It is the intent of the General Court to create an accountable, community based system that  
17 provides consistent services throughout the Commonwealth to address the needs of families and  
18 children in crisis, by providing them with an array of resources. The goal of said system is to  
19 preserve and strengthen families while ensuring the healthy emotional, mental and social  
20 development of the child. These services shall focus on creating a stable environment and  
21 strengthening the family as a whole while emphasizing parental responsibility.

22 Said community based system shall provide the family and child with immediate responses for  
23 the stabilization of the family as well as to connect the family to additional services in the  
24 community through referrals and advocacy. The services provided to the families and children  
25 involved shall be provided on a continuum of increasing intensity with the goal of keeping the  
26 child out of the juvenile justice and child protection systems. The system shall include a  
27 mechanism for the collection and analysis of information which will enable the Commonwealth  
28 to evaluate the effectiveness of services and to identify gaps in services.

29 It is the intent of the General Court to reserve judicial intervention for those children and  
30 families who require services beyond said community based services in order to achieve  
31 stabilization and resolution.

32 3. For the purpose of this Section, the following words shall have the following meanings:

33 'Child requiring assistance': a child between the ages of six and eighteen who repeatedly runs  
34 away from the home of his parents or legal guardian, or repeatedly fails to obey the lawful and  
35 reasonable commands of his parents or legal guardian, thereby interfering with said parent's or  
36 legal guardian's ability to adequately care for and protect said child, or repeatedly fails to obey  
37 the lawful and reasonable regulations of his school, or who is habitually truant;

38 'Family with children requiring assistance', the parents, guardians, siblings and any other  
39 relatives or caretakers responsible for a child between the ages of 6 and 18 who need assistance  
40 from state, local, or private agencies or providers of social, educational, health, mental health, or  
41 behavioral health services in order to adequately care for and protect the child;

42 'Habitually truant': a child between the ages of 6 and 18 , not otherwise excused from  
43 attendance in accordance with the lawful and reasonable regulations of his school who fails to  
44 attend school for more than 8 school days in a quarter;

45 'Secretary': the secretary of the executive office of health and human services.

46

47 4. (a) The secretary, using the resources of the office of children, youth and families, shall  
48 create a network of child and family service programs throughout the commonwealth to provide  
49 community-based services to all children and families who are at risk of contact with the  
50 juvenile justice system or the child protection system, families with children requiring  
51 assistance, and children who require assistance. The secretary shall enter into contracts with  
52 private and public organizations to implement the program and provide services.

53 (b) The purpose of the community-based services program shall be to assist families so that  
54 children will be able to continue residing with their families in their home communities; assist  
55 families to enable children to continue as students in their community schools; strengthen the

56 relationships between children and families; and provide coordinated, comprehensive,  
57 community based services for children at risk of dropping out of school, delinquency, or  
58 engaging in behaviors which impede the likelihood of their leading healthy productive lives.

59 (c) The secretary shall:

- 60 (i) design models for delivery of community-based services by community based  
61 organizations and collaborations of public and private organizations;
- 62 (ii) pilot alternative systems to address the problem of children running away from their  
63 parents or legal guardians;
- 64 (iii) develop standards necessary to achieve and maintain, on a statewide basis,  
65 comprehensive and integrated community-based services for children and families;
- 66 (iv) monitor and provide technical assistance to providers of community-based services;
- 67 (v) adopt a standard intake screening and assessment tool to evaluate all families and  
68 children seeking community-based services which identifies the family's strengths,  
69 resources and service needs such as mental health, behavioral health or substance abuse  
70 treatment, basic family shelter, clothing, and food needs, child care needs, health  
71 insurance status, legal issues, education placement and child protection;
- 72 (vi) create a data collection system for use by programs which maintains the privacy of  
73 clients served, assists programs and the executive office of health and human services in  
74 addressing the needs of the population to be served, collects information related to,  
75 among other things the insurance status and benefit coverage of clients served, income  
76 documentation as needed to apply a sliding fee scale for payment or waiver of payment  
77 for services, and other information that may assist the program and the secretary in

78 providing services, identifying service needs and gaps and evaluating the effectiveness  
79 of community-based services.

80 5. (a) The secretary shall make grants for the purpose of planning, establishing, operating,  
81 coordinating and evaluating programs which will provide community-based services. The  
82 secretary shall issue requests for proposals for the provision of community-based services and  
83 such requests for proposals shall include among its requirements that applicants submit a plan  
84 for:

- 85 (i) coordination of direct services for families from public and private providers;
- 86 (ii) creation of a local advisory board which is broadly representative of the members of  
87 the community concerned for and experienced with the needs of families and children at  
88 risk of involvement in the juvenile justice system and the child protection system and  
89 includes, but is not limited to: representatives from school districts, police officers,  
90 juvenile probation officers, district attorneys, attorneys who represent children, mental  
91 health clinicians, behavioral health providers, parents, youth, local religious  
92 organizations, representatives of local businesses, higher education, social service  
93 agencies, public health agencies, and other persons with experience in assisting youth  
94 and families in crisis. Membership shall be broadly representative of the racial, ethnic  
95 and economic diversity of the community. The local advisory boards shall create a  
96 subcommittee for each municipality in the service area which shall consist of a  
97 representative from the school department, the police department, two parents, and at  
98 least one other member of the advisory board;
- 99 (iii) periodic evaluation of the success in achieving program goals, a process for making  
100 adaptations and improvements based on evaluation information.

101 (b) Subject to appropriation, at least one grant shall be awarded for the operation of a  
102 community-based services program in each geographic region defined as a service area for the  
103 delivery of behavioral health services to children entitled to care pursuant to 1905(a)(4)(B) of the  
104 Social Security Act. Additionally, two grants shall be awarded for runaway treatment and  
105 prevention programs one in an urban location and one in a rural location. Grants may award  
106 funding for up to three years, subject to appropriation, and based on evidence of effectiveness  
107 and the submission of annual reports to the secretary.

108 (c) Proposals may be submitted by a local school or other local public agency or private  
109 organization or medical or mental health care providers. Existing organizations or coalitions of  
110 organizations which provide or coordinate social, educational, health, behavioral health or  
111 mental health services to children or families may be given preference in awarding grants  
112 wherever additional coordination will promote efficiency and increased access to services.  
113 Applicants must demonstrate expertise in assisting children and families who are at risk of  
114 contact with the juvenile justice system or the child protection system and program staffing  
115 which meets the credentialing and caseload criteria as defined by the secretary.

116 6. (a) Community-based services shall be available to children between the ages of 6 and 18  
117 who are habitually truant or children between the ages of 6 and 18 who runaway from the home  
118 of their parents or legal guardian, or refuse to obey the lawful rules of their parents or legal  
119 guardian, or repeatedly fail to obey school rules, and to families whose children engage in such  
120 behaviors.

121 (b) Participation in community-based services shall be voluntary. Families or children may  
122 terminate their involvement at any time. Services may be provided for 120 days. After the

123 initial 120 day period, families or children and the community-based services program  
124 representative may agree to extend services for up to an additional 90 days.

125 (c) Staff of the program offering community-based services shall be required to report suspected  
126 physical or emotional abuse or neglect of a child pursuant to General Laws Chapter 119,  
127 Section 51A.

128 7. (a) A child or family may seek assistance from a community-based services program directly  
129 and without referral. Children and families may be referred to local programs offering  
130 community-based services by a police officer, probation officer, judge, social worker, employee  
131 of the departments of social services or youth services, school administrator, pediatrician,  
132 behavioral health, mental health or medical provider treating a child. Provided that, when a  
133 school administrator refers a child for habitually truant behavior, it must show that the school,  
134 child, and family have completed a department of education certified truancy program if such a  
135 program is available at the school. Whenever a child or family seeks assistance for habitually  
136 truant behavior the program staff shall assist the family in gaining access to the child's school's  
137 department of education certified truancy program.

138 (b) Whenever the staff of the program offering community-based services determines that a  
139 family seeking or referred for services for a child has significant and complex medical needs  
140 which cannot be met by the program, or where the child's behavior presents a significant risk of  
141 harm to the child himself, the family, or the community, then the child and family shall be  
142 referred to other services, pursuant to SECTION 5 of the Act which created this Section.

143 (c) Where a youth has been charged with a delinquency offense or adjudicated delinquent,  
144 eligibility for participation in community-based services shall be determined by the program  
145 administrator after a review of the facts surrounding the offense by a team consisting of a

146 community-based services caseworker, probation officers, family members and the counsel  
147 representing the child in the delinquency matter.

148 (d) Where the child is in the custody of the department of social services and residing in an out  
149 of home placement, eligibility for participation in community-based services shall be  
150 determined by the program administrator after a review of the facts surrounding the placement  
151 by a team consisting of the community-based services caseworker, the department of social  
152 services caseworker, family members and any counsel representing the child in the matter of  
153 placement and custody.

154 (e) Where a child or family is denied access to community-based services for reasons other than  
155 those described in this section the program shall provide a written explanation of reasons for  
156 exclusion and the identification of other community based services and resources available to  
157 them.

158 (f) When a child or family is denied services pursuant to this section the program shall contact  
159 the family in person or by telephone within two weeks after the denial decision to determine if  
160 the other appropriate services have been obtained and whether or not community-based services  
161 are now appropriate. The program shall provide to the family and child a notice, in a form  
162 acceptable to the juvenile court, stating that the family is not eligible for community-based  
163 services and listing the reasons for ineligibility.

164 (g) The program shall make available to the public information identifying a variety of  
165 community based educational, social, medical, mental health and behavioral health services  
166 available to assist families and children.

167 8. (a) Community-based services shall include but are not limited to:

168 (i) program representatives available to respond to requests for service 24 hours a day, 7  
169 days a week;

170 (ii) initial response to referral or request for services by a family or child which includes  
171 a meeting to determine the circumstances which resulted in the request or referral within  
172 six hours of contact ;

173 (iii) a plan for stabilization of any crisis which initiated the referral or request within a  
174 reasonable time;

175 (iv) assessment and screening of each person requesting services and, if possible, all  
176 family members residing in the household, using the standard intake tool as established  
177 by the secretary pursuant to section 4(c), within seventy-two hours\_of referral or request.  
178 The person conducting the assessment and screening must note the reasons why any  
179 family member was not screened within seventy-two hours of the initial request, and  
180 must complete the screening process for all family members residing in the household  
181 within one week of the initial referral;

182 (v) assignment of a case manager to each family upon assessment;

183 (vi) creation of a family service plan within ten working days from initial contact which  
184 includes: strength based assessment and statement of family needs presented; needs of  
185 the child; needs of the parents, legal guardian, or legal custodian; measurable objectives  
186 that address the identified needs; services and treatment to be provided by the  
187 community-based services program or to which the family and child will be referred,  
188 which may include, but are not limited to: community medical, mental health and  
189 behavioral health services, assistance with obtaining special education evaluation and  
190 services and remedial education services, assistance with insurance coverage issues;

191 recreational services; mediation and family group conferencing. For each service or  
192 treatment included, the plan shall contain a statement clearly identifying: the type of  
193 services or treatment, frequency of services or treatment, location, responsible service  
194 providers or staff, and timeframes for achieving the plan objectives. The service plan  
195 shall be reviewed and agreed to by the family before implementation;

- 196 (vii) periodic review of the family service plan by the case manager and the family to  
197 determine whether it is being followed and if it is effective;
- 198 (viii) intensive crisis counseling for both children and families;
- 199 (ix) parent training in appropriate skill areas directly related to the needs of the family;
- 200 (x) data collection in a format as required by the secretary for each referral or request  
201 which protects the privacy of the individuals seeking services while providing a means  
202 to insure that information necessary to optimize the likelihood of successful outcome for  
203 each person seeking services and to permit the evaluation of the effectiveness of the  
204 program;
- 205 (xi) compilation and dissemination to the general public of information about family  
206 support resources and services available in the community;
- 207 (xii) crisis intervention residential placements for children for up to 72 hours;
- 208 (xiii) voluntary respite residential placement of the child for up to 21 days; and
- 209 (xiv) mediation or alternative dispute resolution.

210 (b) Services and treatment for families shall be pursuant to a voluntary agreement of the parent  
211 or legal guardian and the child. In the absence of the consent of a parent or legal guardian,  
212 respite care may be provided to a child pursuant to the provisions and subject to the limitations  
213 of chapter 119, section 23, paragraph G. The program shall advise the parents or legal guardian

214 that they may be responsible for contributing to the cost of the child or family services and  
215 treatment to the extent of their ability to pay. Programs may charge and collect fees for services  
216 and treatment provided to families and children as required by the secretary, at rates established  
217 by the secretary.

218 9. (a) The case manager shall request a meeting of the family and child, at a time and place that  
219 is convenient to them, with a case staffing team to review the family service plan of any family  
220 or child whenever:

- 221 (i) the family or child is not in agreement with the services or treatment offered; or
- 222 (ii) the family or child does not participate in the services or treatment selected; or
- 223 (iii) a school, state agency, or private service provider does not provide the services or  
224 treatment selected; or
- 225 (iv) the case manager needs assistance in developing an appropriate plan for the  
226 provision and funding of services.

227 (b) The composition of the case staffing team shall be based on the needs of the family and  
228 child and be chosen after consultation with the family and child. It shall include a representative  
229 from the child's school district, and may include a supervisor of the case manager, individuals  
230 with professional expertise in . health care, mental health care, behavioral health care, substance  
231 abuse, social, or educational services and any person recommended by the child, family, or case  
232 manager.

233 (c) The case staffing team shall reach a timely decision on a family service plan which meets the  
234 needs of the child and family.

235 (d) Upon receipt of the plan, the child and family shall accept or reject the services and  
236 provisions in writing. Each service provider identified in the plan shall also accept or reject their  
237 participation in writing. If the plan is accepted, it shall be implemented immediately.

238 (e) The case manager and the family shall be equally responsible for implementing the plan.  
239 The case manager, the family and child shall periodically review the progress towards achieving  
240 the objectives of the plan in order to:

241 (i) advise the case staffing team of the need to make adjustments to the plan; or

242 (ii) terminate the case as indicated by successful or substantial achievement of the  
243 objectives of the plan.

244 (f) The parent or legal guardian or child who is over the age of 16 may convene a resolution  
245 meeting of the case staffing team, and any other member of the team may convene a resolution  
246 meeting at any time if the member finds that doing so is in the best interest of the family or  
247 child. A resolution meeting requested by a parent or legal guardian or child who is over the age  
248 of 16 must be convened within 7 days, excluding weekends and legal holidays, after the date the  
249 case manager receives the request in writing.

250 10. (a) 120 days after the assessment and screening of a child and family referred to or  
251 requesting community-based services, the case manager shall meet with the family and child, or  
252 with the case staffing team if one has been created, in order to determine whether or not services  
253 should be extended for an additional 90 days. If the family, child and case manager agree to  
254 extend services they shall be extended, if they agree not to extend then the case manager shall  
255 convene a resolution meeting.

256 (b) If services are extended then at the end of the additional 90 day period the case manager  
257 shall convene a resolution meeting.

258 (c) If the family was referred to community-based services by a court or a probation officer then  
259 services may be extended for additional 90 day periods at the request of the court or probation  
260 officer.

261 11. (a) A resolution meeting shall be convened by a case manager so that the family, child, case  
262 manager and case staffing team, if one has been created, may assess whether the goals of the  
263 family service plan have been achieved or if further services are in the best interest of the  
264 family and child. After the meeting the case manager shall document the resolution of the case  
265 as follows:

266 (i) that it is unlikely the family and child will benefit from additional community-based  
267 services at this time and the case is discharged, or

268 (ii) that the family failed to cooperate with the service plan and the case is discharged, or

269 (iii) that the public or private agencies designated in the plan to provide specific services  
270 did not provide those services and the case is discharged; or

271 (iv) that the presenting behaviors are resolved and the case is discharged.

272 (b) Within 7 days after meeting, the case staffing team shall provide the parent or legal guardian  
273 with a written report that details the reasons for the decisions made at the resolution meeting.

274 The report shall contain a written statement of the circumstances which brought the family and  
275 child to the program. The report shall contain a notice, in a form acceptable to the juvenile  
276 court, stating that community-based services have terminated and whether or not the case  
277 manager believes it is likely that the child and family would benefit from further services.

278 (c) The report and any documentation of services provided to the family and child shall not be  
279 public records. Statements made by the family and child while receiving services from the  
280 program shall be treated as confidential. Such statements may not be used in school

281 disciplinary proceedings and may not be admitted into evidence in any court proceeding arising  
282 from the circumstances which brought the family and child to the program, unless the child and  
283 family waive their privilege or unless a court finds that such inadmissibility would result in  
284 substantial harm to the child.

285 12. There shall be an advisory council appointed by the secretary which shall advise the  
286 secretary on creation, operation and effectiveness of the community-based services program.  
287 Members shall include the commissioners or their designees of the departments of public health,  
288 mental health, mental retardation, social services, youth services, transitional assistance,  
289 education and public safety, the director of the office of Medicaid or his designee, the  
290 commissioner of probation or his designee, the chief justice of the juvenile court or his  
291 designee, a district attorney, members of the bar who represent children in juvenile court  
292 proceedings, a designee of the committee on public counsel services, an education advocate,  
293 representatives of urban, suburban and rural municipal police departments and school districts,  
294 providers of service to children and families, parents, and at least 2 young adults who have  
295 participated in a community-based services program.

296 13. The secretary shall report annually on February 1, to the joint committee on children,  
297 families and persons with disabilities and the house and senate committees on ways and means  
298 and the child advocate on the progress of the community-based services program.

299 **SECTION 2:** Chapter 69 of the General Laws is hereby amended by adding after section 1N  
300 the following new section:

301 Section 1O. The department shall, subject to appropriation, establish a discretionary grant  
302 program assist schools in planning and implementing truancy prevention programs which  
303 meet the certification requirements established pursuant to section 1P of Chapter 69.”

304 **SECTION 3:** Chapter 69 of the General Laws is hereby amended by adding after section 10  
305 the following new section:

306 Section 1P

307 The Department of Education shall promulgate regulations establishing a truancy prevention  
308 program certification process. School districts shall establish a truancy prevention program  
309 which meets the requirements for certification by the department. .

310 **SECTION 4.** Chapter 119 of the General Laws is hereby amended by repealing Sections 39E to  
311 39J, inclusive, and adding the following new sections:

312 Section 39K. Definitions

313 “Child requiring assistance”, a child below the age of eighteen who repeatedly runs away from  
314 the home of his parents or legal guardian, or repeatedly fails to obey the lawful and reasonable  
315 commands of his parents or legal guardian, thereby interfering with said parent’s or legal  
316 guardian’s ability to adequately care for and protect said child, or repeatedly fails to obey the  
317 lawful and reasonable regulations of his school, or who is a habitually truant;

318 ‘Family requiring assistance’, the parents, guardians, siblings and any other relatives or  
319 caretakers responsible for a child between the ages of 6 and 18 who need assistance from state,  
320 local, or private agencies or providers of social, educational, health, mental health, or behavioral  
321 health services in order to adequately care for and protect the child;

322 “Habitual truant”, a child between the ages of 6 and 18 , not otherwise excused from attendance  
323 in accordance with the lawful and reasonable regulations of his school, who fails to attend  
324 school for more than 8 school days in a quarter;

325 “Parent”, includes a legal guardian or other person legally responsible for a child’s care.

326 Section 39L. Jurisdiction

327 The Juvenile court department has original and exclusive jurisdiction over any proceeding  
328 commenced under section 39N alleging that a family or child require assistance.

329 Section 39M. Nature of the Proceedings

330 1. Proceedings pursuant to sections 39K to 39X, inclusive, shall not be deemed criminal  
331 proceedings and any record of these proceedings, including the filing of a request for assistance  
332 and creation of a docket, shall not be entered in the Criminal Offender Record Information  
333 System.

334 2. Proceedings pursuant to sections 39K to 39X, inclusive, shall be confidential and not be open  
335 to the public.

336 .Section 39N. Request for Assistance

337 1. A proceeding to determine whether or not a child or family requires assistance is originated  
338 by the filing of a request for assistance, stating the petitioner's information and belief:

339 (a) that the child repeatedly runs away from the home of his parents or legal guardian, or  
340 repeatedly fails to obey the lawful and reasonable commands of his parents thereby  
341 resulting in said parent's inability to adequately care for and protect said child, or that  
342 the child is habitually truant or repeatedly fails to obey the lawful and reasonable  
343 regulations of his school;

344 (b) that the child was under the age of 18 at the time the specified acts took place,

345 (c) specific acts on which the request for assistance is based and the time and place they  
346 are believed to have occurred;

347 (d) when the petitioner is a school district, the request for assistance shall also include:

348 (i) if the request for assistance states that a child is habitually truant, a  
349 statement of the actions taken by the school district to comply with its  
350 obligations under its truancy prevention program certified pursuant to  
351 chapter 69, section 1O and to improve the school attendance of the  
352 child. The request for assistance shall also state whether or not the  
353 child and his family have participated in the truancy prevention  
354 program.; and

355 (ii) if the request for assistance states that a child has repeatedly failed to  
356 obey the lawful and reasonable regulations of the school, a statement  
357 of the specific steps taken by the school to improve the child's  
358 conduct.

359 (e) that the child and family require assistance.

360 2. The following persons may originate a proceeding under this section:

361 (a) a police officer;

362 (b) a parent;;

363 (c) a school district;

364 3. The petitioner shall attach to the request for assistance the notice of termination of  
365 community-based services as provided for in chapter 6A, section 16H(11)(b) or notice of  
366 ineligibility as provided for in chapter 6A, section 16H (7)(e). Except as provided below, the  
367 clerk shall not accept for filing any request for assistance that does not have attached thereto  
368 said notice of termination or ineligibility.

369 Any person or agency seeking to file a request for assistance pursuant to this section which does  
370 not have attached thereto the notice of termination of community-based services shall be  
371 referred by the clerk of the court to the program designated by the secretary of the executive  
372 office of health and human services to provide community-based services in the juvenile court  
373 district where the child resides.

374 If the petitioner is a police officer, the clerk may accept a written statement of the reasons for  
375 the officer's belief that the referral to community-based services prior to filing the request for  
376 assistance would present a risk of harm to the child or others in lieu of the notice of termination  
377 or ineligibility. The clerk shall then immediately contact the designated community-based  
378 services to provide notice that a request for assistance has been filed.

379 If the petitioner is a parent, then the clerk may accept a written statement of the parents' reasons  
380 for the parents' belief that referral to community based services prior to filing the request for  
381 assistance would present a risk of significant harm to the child, family or community. The court  
382 shall then immediately review the request for assistance and if the court finds that referral of the  
383 family and child to community based services is likely to result in said harm, then the court  
384 shall order the creation of a docket for the matter and assign a probation officer to conduct an  
385 immediate inquiry and report to the court with advice on how to proceed to obtain assistance for  
386 the child.

387 Section 39O Notice

388 1. Except as provided in subsection 2, on the filing of a request for assistance pursuant to this  
389 section, the court may cause a copy of the request for assistance and a summons to be issued,  
390 requiring the child and each parent to appear at the court at a time and place named to address  
391 the request for assistance

392 2. In proceedings originated by a parent the court shall cause a copy of the request for assistance  
393 and notice of the time and place to be heard to be provided to that person when the request is  
394 filed. The court is not required to issue a summons to that person.

395 3. A copy of the request for assistance served or provided under subsection 1 or 2 shall be  
396 accompanied by a notice that, in the event that the court deems it necessary to place the child in  
397 the care and custody of the department of social services, said parent may be named as a  
398 respondent in any child support proceeding brought in connection with the child's care

399 4. Unless service of the summons required by this section is waived in writing, such summons  
400 shall be served by a constable or police officer, either by delivering it personally to the person to  
401 whom addressed, or by leaving it with a person of proper age to receive the same, at the place of  
402 residence or business of such person, and said constable or police officer shall immediately  
403 make return to the court of the time and manner of service.

404 Section 39P Scheduling the Fact Finding Hearing

405 The clerk shall set a date for a fact finding hearing no more than 90 days from the date the  
406 request for assistance is filed. If at any time prior to the hearing the parents, child, petitioner

407 and probation officer agree, the fact finding hearing may be postponed for an additional 90 days  
408 after the expiration of the initial 90 day period.

409 Section 39Q Appointment of Counsel

410 1. When the request for assistance is filed the child shall be informed that he has a right to  
411 counsel at all hearings, and if said child is not able to retain counsel, the court shall appoint  
412 counsel for said child. The court shall appoint counsel for the child when the request for  
413 assistance is filed. The clerk shall cause a copy of the request for assistance and notice of the  
414 time and place of the fact finding hearing to be delivered to counsel at the time of appointment.

415 2. When the request for assistance is filed, each parent or legal guardian of the child shall be  
416 informed that he has the right to participate as a party in any proceeding under sections 39K to  
417 39X involving his child and that he has the right to counsel at any hearing or proceeding  
418 regarding custody of his child. If said parent or legal guardian is financially unable to retain  
419 counsel, the court shall appoint counsel for said parent or legal guardian.

420 3. The court shall determine whether the parent or legal guardian of a child alleged to require  
421 assistance is indigent. If the court determines that the parent or legal guardian is not indigent,  
422 the court shall assess a \$300 fee against the parent or legal guardian to pay for the cost of  
423 counsel appointed for the child. If the parent or legal guardian is determined to be indigent but  
424 is still able to contribute toward the payment of some of said costs, the court shall order the  
425 parent or legal guardian to pay a reasonable amount toward the cost of counsel appointed for the  
426 child.

427 Section 39R Preliminary Inquiry by Probation

428 1. The chief probation officer or his designee shall conduct a preliminary inquiry to determine  
429 whether in his opinion the best interests of the child and family require that crisis intervention  
430 services be provided to the child and family.

431 The probation officer in his discretion may:

432 (a) refer the family and child to the program designated to provide community-based  
433 services for this juvenile court division; the probation officer may confer with the  
434 provider of community-based services to resolve the situation which formed the basis of  
435 the request for assistance;

436 (b) refer the child to an appropriate public or private organization or person for  
437 psychiatric, psychological, educational, occupational, medical, dental or social services;

438 (c) conduct conferences with the child, the child's family and the petitioner for the  
439 purpose of effecting adjustments or agreements which are calculated to resolve the  
440 situation which formed the basis of the request for assistance;

441 (d) if the child or his parents fail to participate in good faith with the referrals or  
442 conferences arranged by the probation officer or if the probation officer is not able to  
443 refer the child or his parents to an appropriate public or private organization which is  
444 willing and able to provide appropriate services, the probation officer shall so certify in  
445 writing and present these findings to the court.

446 2. (a) The probation officer shall gather information concerning the child and family which in  
447 both substance and format is compatible with and complementary to the information gathered  
448 by programs providing community-based services pursuant to section 16H of chapter 6A.

449 (b) The Commissioner of Probation shall establish a data collection system for use by probation  
450 officers assisting children pursuant to sections 39K through 39X which maintains the privacy of  
451 clients served, assists the court in addressing the needs of the population to be served, collects  
452 information related to, among other things the insurance status and coverage of clients served,  
453 and other information that may assist the commissioner and the court in evaluating the  
454 availability and effectiveness of services for children who are the subjects of requests for  
455 assistance pursuant to this section.

456 (c) The Commissioner of Probation shall report annually to the Child Advocate on the  
457 assistance provided by probation officers to children and families under Sections 39K to 39X.  
458 The report shall be filed on October 1 of each year and shall include for each juvenile court  
459 district: the number of children and families receiving assistance, an analysis of the services  
460 provided and an identification of gaps in services available, the status or resolution of each  
461 request for assistance filed in the previous year, and the numbers of children who are the subject  
462 of a request for assistance and also charged with a delinquency matter in the previous year,

463 3. Conferences and referrals arranged under this section may extend for a period not to exceed  
464 90 days from the date that the request for assistance was filed, unless the parent, child and  
465 petitioner voluntarily agree in writing to a continuation of such conferences or referrals for an  
466 additional period not to exceed 90 days from the expiration of the original period. Upon the  
467 expiration of the initial 90 day period, or of such additional 90 day period, the request for

468 assistance may be dismissed and the child and his parents discharged from any further  
469 obligation to participate in such conferences and referrals, or a fact finding hearing shall be  
470 held.

#### 471 Section 39S Custody, Failure to Appear

472 If, after a hearing at which the child is represented by counsel, the court finds that a child  
473 alleged to require assistance by reason of repeatedly failing to obey the lawful and reasonable  
474 commands of his parent is likely not to appear at the fact finding hearing or at the disposition  
475 hearing ., the court may place the child in the temporary custody of the Department of Social  
476 Services.

477 An order under this Section shall be valid for no more than 15 days without the child being  
478 brought again before the court for a hearing on whether the order should be continued for  
479 another 15 day period. If the court decides to extend the order, it shall note in writing the  
480 detailed reasons for its decision. An order under this section may be in effect for no more than  
481 45 days total.

482 A child who is the subject of a request for assistance may not be confined in shackles or similar  
483 restraints or in a court lockup facility in connection with any proceedings pursuant to Sections  
484 39K through 39X.

#### 485 Section 39T Withdrawal of Request for Assistance

486 The petitioners may, upon a showing that the circumstances which brought the matter before the  
487 court have been resolved, withdraw the request for assistance at any point prior to a hearing to  
488 determine the disposition of a request for assistance.

#### 489 Section 39U Fact Finding Hearing

490 1. The court shall hold a fact finding hearing in which it shall receive evidence from the  
491 petitioner, the parent, and the community-based services program case manager and the  
492 recommendation of the probation officer.

493 2. At the fact finding hearing the court shall review any notice of termination of community-  
494 based services. The court shall consider any available documentation of diligent attempts to  
495 provide appropriate services and determine whether such efforts or services provided were  
496 sufficient. With the consent of the parent(s) and child the court may consider any written  
497 reports from service providers which would otherwise be subject to confidentiality or privilege.

498 The court may order the child and the parent or other person legally responsible for the child to  
499 participate in community-based services regardless of whether or not the child and parents have  
500 previously used community based services on a voluntary basis. If the designated program  
501 thereafter determines that the case has been successfully resolved, it shall so notify the court,  
502 and the court shall dismiss the request for assistance.

503 3. The court shall either:

504 (i) dismiss the request for assistance because the circumstances which led to the filing of  
505 a request for assistance have been resolved and the court finds that the child and family  
506 do not require assistance;

507 (ii) adjourn the hearing for up to 60 days because it finds that the interests of the child  
508 would best be served by continued informal assistance, in which case the court shall,  
509 with the consent of the child and his parent, refer the child to a probation officer or refer  
510 the child and family to the designated program for additional community-based services  
511 assistance; or

512 (iii) find that the child and family require assistance and schedule a hearing for  
513 disposition

514 4. No statements made by a child, family member, or by any other person during the period of  
515 inquiries, conferences, or referrals may be admitted at the fact finding hearing without the  
516 consent of the child or family member who made the statement, but may be received by the  
517 court at the hearing for disposition

#### 518 Section 39V Disposition Hearing

519 1. At any hearing held to determine whether a child and family require assistance, the child and  
520 his attorney shall be present and the parents or legal guardian shall be given an opportunity to be  
521 heard. The petitioner who files the request for assistance shall bear the burden of presenting  
522 evidence proving that the child and family require assistance. If the court finds the allegations  
523 in the request for assistance have been proved at the fact finding hearing by a preponderance of

524 the evidence, it may find that the child and family named in such request for assistance to be a  
525 child and family requiring assistance.

526 2. Upon making a finding that a child and family require assistance, the court shall convene a  
527 meeting of the probation officer who conducted the preliminary inquiry, the case manager, if  
528 any, from the community-based services program, the petitioner, a representative from the  
529 child's school, the child's parent, a representative of the department of social services, and any  
530 other person the court deems helpful in determining the assistance to be offered to the child and  
531 family. The persons at the meeting shall present written findings to the court to advise the court  
532 on appropriate treatment and services for the child and family and appropriate placement for the  
533 child and appropriate conditions and limitations of such placement. The court, taking into  
534 consideration those findings and the physical and emotional welfare of the child, may make any  
535 of the following orders of disposition:

536 (a) subject to any conditions and limitations the court may prescribe, including provision  
537 for medical, psychological, psychiatric, educational, occupational and social services,  
538 and for supervision by a court clinic or by any public or private organization providing  
539 counseling or guidance services, permit the child to remain with his parents;

540 (b) subject to such conditions and limitations as the court may prescribe, including, but  
541 not limited to provisions for those services described in clause (a), place the child in the  
542 care of any of the following:

543 (i) a relative, or other adult individual who, after inquiry by the probation officer  
544 or other person or agency designated by the court, is found to be qualified to  
545 receive and care for the child;

546 (ii) a private charitable or childcare agency or other private organization,  
547 licensed or otherwise authorized by law to receive and provide care for such  
548 children; or

549 (iii) a private organization which, after inquiry by the probation officer or other  
550 person or agency designated by the court, is found to be qualified to receive and  
551 care for the child.

552 (c) subject to the provisions of sections 32 and 33 and with such conditions and  
553 limitations as the court may recommend, place the child in the custody of the department  
554 of social services. If the court chooses to place the child in the custody of the department  
555 then at the same time, the court shall consider the provisions of section 29C and shall  
556 make the written certification and determinations required by said section 29C. When  
557 the court has placed a child in the custody of the department, then the department:

558 (i) may not refuse out-of-home placement of a child if the  
559 placement is recommended by the court provided that the court  
560 has made the written certification and determinations required  
561 by said section 29C;

- 562 (ii) may not refuse out of home placement when requested by the  
563 child if there is a substantiated history of abuse and neglect in  
564 the home by the parent or legal guardian;
- 565 (iii) subject to clauses (i) and (ii), shall direct the type and length of  
566 such out-of-home placement;
- 567 (iv) subject to clauses (i) and (ii), shall give due consideration to  
568 the recommendations of the court. Whenever the department  
569 decides not to carry out the recommendations of the court  
570 regarding placement and treatment of the child it shall present  
571 the reasons for its decision and the alternative plan for  
572 treatment and placement in writing to the court.

573 (d) The court may issue an order directing any state agency to provide particular services  
574 to the family and child including but not limited to those services described in clause (a).  
575 If the agency is not able to comply with the order directing services then the agency  
576 shall provide to the court a written statement of the reasons why it is unable to provide  
577 those services. A copy of the statement shall be sent to the house and senate committees  
578 on ways and means and the joint committee on children, families and persons with  
579 disabilities.

580 (e) Notwithstanding the provisions of subsection 2 (d) the court may not order the child  
581 to be placed in the custody of the department of youth services and may not be placed in  
582 a locked facility.

583 3.. A child found to require assistance shall not be placed in a locked facility or any facility  
584 designated or operated for juveniles adjudicated delinquent. However, such child may be placed  
585 in a facility which operates as a group home to provide therapeutic care for juveniles regardless  
586 of whether juveniles adjudicated delinquent are also provided care in such facility..

#### 587 Section 39W Duration of Assistance

588 1. Any order of disposition under Section 39V shall continue in force for not more than 90 days;  
589 provided, however, that the court which entered the order may, after a hearing, extend its  
590 duration for up to three additional periods, each such period not to exceed 90 days, if the court  
591 finds that the purposes of the order have not been accomplished and that such extension would  
592 be reasonably likely to further those purposes. Orders shall be extended upon a finding that the  
593 child or family are not participating in good faith.

594 2. No order shall continue in effect after the eighteenth birthday of a child named in a request  
595 for assistance.

#### 596 Section 39X. Custodial Protection

597 1. (a) A child may be taken into custodial protection for engaging in the behaviors described in  
598 section 39N, only if such child has failed to obey a summons issued pursuant to section 390, or  
599 if the law enforcement officer initiating limited custody has probable cause to believe that such  
600 child has run away from the home of his parents or legal guardian.

601 (b) After an officer has taken a child into custodial protection, the officer shall immediately  
602 notify the parent or other person legally responsible for the child's care, or the person with  
603 whom he is domiciled, that he is under the custodial protection of the officer.

604 (c) After making every reasonable effort to give notice under paragraph (b), the officer shall:

605 (i) release the child to the custody of his or her parent or other person legally responsible  
606 for his or her care upon the written promise, without surety, of the person to whose  
607 custody the child is released that he will bring the child to the program designated to  
608 provide community-based services for the geographic region which constitutes the  
609 district of the juvenile court department within which the child was taken into custodial  
610 protection or in which the child resides, at a time and place specified in writing; or

611 (ii) forthwith and with all reasonable speed take the child directly, and without first  
612 being taken to the police station house, to the program designated to provide  
613 community-based services for the geographic region which constitutes the district of the  
614 juvenile court department within which the child was taken into custodial protection or  
615 in which the child resides,; or

616 (iii) release the child to a representative of the department of social services, if the law  
617 enforcement officer has reason to believe that the child is or has been in the care or  
618 custody of such department; or

619 (iv) take the child directly to the juvenile court in which the act occasioning the taking  
620 into custodial protection occurred, provided that the officer affirms on the record that he

621 or she attempted to exercise the options identified in paragraphs (i), (ii), and (iii) of this  
622 subdivision, was unable to exercise these options, and the reasons therefore.

623 (d) In the absence of special circumstances, the officer shall release the child to his parents or  
624 other person legally responsible for his care in accord with paragraph (c)(i).

625 (e) A child may not be securely detained in a police station or town lockup. At no time shall a  
626 child be placed in any locked facility under the supervision of any police department, sheriff  
627 department, or department of youth services.

628 (f) Notwithstanding the foregoing requirements for placement, any such child who has been  
629 taken into custodial protection shall, if necessary, be taken to a medical facility for treatment or  
630 observation.

631 **SECTION 5 .** Notwithstanding any general law to the contrary the secretary of the executive  
632 office of health and human services and the commissioners of departments of public health,  
633 mental health, mental retardation, social services, youth services and transitional assistance shall  
634 enter into memoranda of understanding among themselves and with the department of  
635 education, office of the commissioner of probation, the juvenile court, municipal police  
636 departments and school districts to provide coordination, delivery, and funding of services to  
637 children and families who, pursuant to the provisions of section 16H(7)(b) of chapter 6A of the  
638 General Laws, are not eligible for community-based services established pursuant to section  
639 16H of chapter 6A.

640 **SECTION 6.** The secretary of the executive office of health and human services shall pilot a  
641 program to address the unique needs of girls who run away from their parents and legal  
642 guardians.

643 **SECTION 7.** The department of education shall pilot a truancy prevention program using a  
644 restorative justice format in at least one urban high school in the commonwealth. The  
645 department shall evaluate the effectiveness of the program in preventing truancy and enhancing  
646 the child's academic performance and report the results of that evaluation to the board of  
647 education.

648 **SECTION 8.** The secretary of health and human services shall report to the house and senate  
649 committees on ways and means and the joint committee on children, families and person's with  
650 disabilities on the various programs and services operated by or being developed by the  
651 departments within the executive office of health and human services which provide  
652 community-based or in-home services to children with behavioral, emotional, or mental health  
653 needs on December 1, 2008. Said report shall include a study of current and planned programs  
654 including but not limited to the behavioral health system of care under development to  
655 implement the settlement agreement, dated August 29, 2006, and entered into by the parties of  
656 Rosie D. et al v. Romney, civil action No. 01-30199-MAP, filed in the United States District  
657 Court in order to provide community-based services to children suffering from severe emotional  
658 disturbances. The report shall include, but not be limited to: i) a proposal to coordinate  
659 overlapping services in order to achieve cost effectiveness and efficiency in the use of the  
660 resources of the commonwealth and to offer better services to children and families in need, and  
661 ii) a proposal coordinate private insurance, Masshealth, and solely state funded programs to

662 ensure the provision of needed services to children who are not eligible for Medicaid funded  
663 services..

664 **SECTION 9.** Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 3 of the  
665 first paragraph, the word “sixteen” and inserting in place thereof the following word:- eighteen.

666 **SECTION 10.** Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 4 of  
667 the second paragraph, the word “sixteen” and inserting in place thereof the following word:-  
668 eighteen