

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Paul J. Donato

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regarding children and families requiring assistance.

PETITION OF:

NAME:

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35th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3466 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REGARDING CHILDREN AND FAMILIES REQUIRING ASSISTANCE.

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 2006 official edition are hereby amended by
2 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
6 children 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, and
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
18 and 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. It is the intent of the
29 General Court to reserve judicial intervention for those children and families who require
30 services beyond said community-based services in order to achieve stabilization and resolution.

31 3. For the purpose of this Section the following words shall have the following meanings:
32 'Child requiring assistance': a child between the ages of 6 and 18 who repeatedly runs away
33 from the home of his parents or legal guardian or repeatedly fails to obey the lawful and
34 reasonable commands of his parents or legal guardian, thereby interfering with said parent's or

35 legal guardian's ability to adequately care for and protect said child or repeatedly fails to obey
36 the lawful and reasonable regulations of his school or who is habitually truant;

37 "Community Service Agency": a community-based organization providing services under
38 contract with the Commonwealth, whose function is to facilitate access to and ensure
39 coordination of services for families with children with serious emotional disturbance who
40 require or are already utilizing multiple services, or are involved with multiple child-serving
41 systems including, but not limited to, the juvenile justice system, department of mental health,
42 and special education, as agreed upon under the settlement dated August 29, 2006 entered into
43 by the parties of Rosie D. et al v. Romney civil action No. 01-30199-MAP filed in the United
44 States District Court.

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

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

52 'Secretary': the secretary of the Executive Office of Health and Human Services.

53 4. (a) The secretary, in consultation with the Commissioner of the Department of Children and
54 Families, the Commissioner of the Department of Youth Services and the Commissioner of the
55 Department of Mental Health, shall establish a network of child and family service programs
56 throughout the Commonwealth to provide community-based services to all children and
57 families who are at risk of contact with the juvenile justice system or the child protection

58 system, families with children requiring assistance, and children who require assistance. The
59 secretary shall enter into contracts with the Community Service Agencies (CSAs) who shall act as
60 Community-Based Service Centers, to implement the program and provide services which are
61 within their capacity. The Community-Based Service Centers shall be permitted, subject to
62 approval by the Secretary, to subcontract with other local providers as needed to provide the
63 full complement of services required under paragraph 8 of this section.

64 (b) The purpose of the community-based services program shall be to assist families so that
65 children will be able to continue residing with their families in their home communities; assist
66 families to enable children to continue as students in their community schools; strengthen the
67 relationships between children and families; and provide coordinated, comprehensive,
68 community-based services for children at risk of dropping out of school delinquency, or
69 engaging in behaviors which impede the likelihood of their leading healthy, productive lives.

70 (c) The secretary shall:

- 71 (i) design models for delivery of community-based services by community-based
72 organizations and collaborations of public and private organizations;
- 73 (ii) pilot alternative systems to address the problem of children running away from their
74 parents or legal guardians;
- 75 (iii) develop standards necessary to achieve and maintain on a statewide basis
76 comprehensive and integrated community-based services for children and families;
- 77 (iv) monitor and provide technical assistance to providers of community-based services;
- 78 (v) adopt a standard intake screening and assessment tool to evaluate all families and
79 children seeking community-based services which identifies the family's strengths,
80 resources, and service needs such as mental health, behavioral health, or substance

81 abuse treatment, basic family shelter, clothing and food needs, child care needs, health
82 insurance status, legal issues, education placement, and child protection;
83 (vi) create a data collection system for use by programs which maintains the privacy of
84 clients served, assists programs and the executive office of health and human services in
85 addressing the needs of the population to be served, collects information related to,
86 among other things, the insurance status and benefit coverage of clients served, income
87 documentation as needed to apply a sliding fee scale for payment or waiver of payment
88 for services, and other information that may assist the program and the secretary in
89 providing services, identifying service needs and gaps, and evaluating the effectiveness
90 of community-based services.

91 5. (a) Subject to appropriation, the secretary shall make grants for the purpose of planning,
92 establishing, operating, coordinating, and evaluating centers, which will provide community-
93 based services. At least one grant shall be awarded for the operation of a community-based
94 services program in each of the 29 Department of Children and Families service areas.
95 Additionally, two grants shall be awarded for runaway treatment and prevention programs, one
96 in an urban location and one in a rural location. Grants may award funding for up to five years
97 subject to demonstration of effectiveness and the submission of annual reports to the secretary.
98 (b) Preference in awarding the grants shall be given to the CSA for the service area wherever the
99 experience and resources of the CSA will promote efficiency and increased access to services. In
100 circumstances where, in the judgment of the secretary, the CSA is not the appropriate selection
101 for the Community-Based Services Center, proposals may be submitted by a local school or
102 other local public agency or private organization or medical or mental health care providers.

103 (c) The secretary shall issue requests for proposals for the provision of community-based
104 services. Proposals must demonstrate expertise in assisting children and families who are at risk
105 of contact with the juvenile justice system or the child protection system and program staffing
106 which meets the credentialing and caseload criteria as defined by the secretary. Proposals shall
107 also require that applicants submit:

108 (i) A plan for development, implementation and coordination of direct services as
109 required under paragraph 8 of this section for families from public and private
110 providers;

111 (ii) A plan for the establishment of a local advisory board which, wherever possible, shall
112 be a subcommittee of the Systems of Care Committee required of all CSAs to focus on
113 the needs of families and children at risk of involvement in the juvenile justice system
114 and the child protection system. The subcommittee shall include: representatives from
115 school districts, police officers, juvenile probation officers, district attorneys, attorneys
116 who represent children, mental health clinicians, behavioral health providers, parents
117 and youth. The committee may also include local religious organizations,
118 representatives of local businesses, higher education, social service agencies, public
119 health agencies and other persons with experience in assisting youth and families in
120 crisis. Membership shall be broadly representative of the racial ethnic and economic
121 diversity of the community. The local advisory boards may, where necessary to
122 facilitate work in communities, create similarly constituted work groups for each
123 municipality in the service area;

124 (iii) Periodic evaluation of the success in achieving program goals a process for making
125 adaptations and improvements based on evaluation information.

126 6. (a) Community-based services shall be available to children between the ages of 6 and 18 who
127 are habitually truant or children between the ages of 6 and 18 who run away from the home of
128 their parents or legal guardian or refuse to obey the lawful rules of their parents or legal
129 guardian or repeatedly fail to obey school rules and to families whose children engage in such
130 behaviors.

131 (b) Whenever the staff of the program offering community-based services determines that a
132 family seeking or referred for services for a child has significant and complex medical needs
133 which cannot be met by the program or where the child's behavior presents a significant risk of
134 harm to the child himself, the family or the community, the child and family shall be referred to
135 other services pursuant to paragraph 5 of this section.

136 (c) Where a youth has been charged with a delinquency offense or is an adjudicated delinquent,
137 eligibility for participation in community-based services shall be determined by the program
138 administrator after a review of the facts surrounding the offense by a team consisting of: a
139 community-based services caseworker, probation officer, family members and the counsel
140 representing the child in the delinquency matter.

141 (d) Where the child is in the custody of the department of children and families and residing in
142 an out-of-home placement, eligibility for participation in community-based services shall be
143 determined by the program administrator after a review of the facts surrounding the placement
144 by a team consisting of the community-based services caseworker, the department of children
145 and families caseworker, a responsible adult with whom the child has an ongoing connection,
146 and any counsel representing the child in the matter of placement and custody.

147 (e) Where a child or family is denied access to community-based services for reasons other than
148 those described in this section, the program shall provide a written explanation of reasons for
149 exclusion and the identification of other community-based services and resources available to

150 them.

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

157 7. (a) A child or family may seek assistance from a community-based services program directly
158 and without referral.

159 (b) Pursuant to Section 39R and 39U of Chapter 119, families may be ordered to seek services
160 from a Community-Based Service Center by a probation officer or judge.

161 (c) Employees of the departments of children and families or youth services may make referrals
162 to Community-Based Service Centers as part of a case plan.

163 (d) Voluntary referrals to community based services may be made by any professional who is
164 working with the family or child(ren).

165 (e) School administrators must refer children or families to community-based services prior to
166 expelling them for failure to comply with the lawful and reasonable rules of the school or for
167 habitual truancy, and the outcome of the services shall be considered as part of any decision to
168 expel for these violations. Provided that when a school administrator refers a child for habitually
169 truant behavior, it must be shown that the school, child, and family have completed a
170 department of education certified truancy program, if such a program is available at the school.
171 Whenever a child or family seeks assistance for habitually truant behavior, the program staff

172 shall assist the family in gaining access to the child's school's department of education certified
173 truancy program.

174 8. Community-based services shall include, but are not limited to:

175 (i) program representatives available to respond to requests for service 24 hours a day,
176 7 days a week;

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

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

182 (iv) assessment and screening of each person requesting services and, if possible, all
183 family members residing in the household using the standard intake tool as established
184 by the secretary pursuant to paragraph 4(c)(v) within seventy-two hours of the referral
185 or request. The person conducting the assessment and screening must note the reasons
186 why any family member was not screened within seventy-two hours of the initial
187 request and must complete the screening process for all family members residing in the
188 household within one week of the initial referral;

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

190 (vi) creation of a family service plan within ten working days from initial contact, which
191 includes: strength-based assessment and statement of family needs presented; needs of
192 the child; needs of the parents, legal guardian or legal custodian; measurable objectives
193 that address the identified needs; services and treatment to be provided by the
194 community-based services program or to which the family and child will be referred,

195 which may include but are not limited to: community, medical, mental health and
196 behavioral health services, assistance with obtaining special education evaluation and
197 services and remedial education services, assistance with insurance coverage issues;
198 recreational services; mediation and family group conferencing. For each service or
199 treatment included, the plan shall contain a statement clearly identifying the type of
200 services or treatment, frequency of services or treatment, location of responsible
201 service providers or staff, and timeframes for achieving the plan objectives. The service
202 plan shall be reviewed and agreed upon by the family before implementation;

203 (vii) periodic review of the family service plan by the case manager and the family to
204 determine whether it is being followed and if it is effective;

205 (viii) intensive crisis counseling for both children and families;

206 (ix) parent training in appropriate skill areas directly related to the needs of the family;

207 (x) data collection in a format as required by the secretary for each referral or request,
208 which protects the privacy of the individuals seeking services while providing a means to
209 insure that information necessary to optimize the likelihood of successful outcome for
210 each person seeking services and to permit the evaluation of the effectiveness of the
211 program;

212 (xi) compilation and dissemination to the general public of information about family
213 support resources and services available in the community; (xii) crisis
214 intervention residential placements for children for up to 72 hours; (xiii) voluntary
215 respite residential placement of the child for up to 21 days; and (xiv) mediation or
216 alternative dispute resolution. (xv) The program shall
217 make available to the public information that identifies a variety of community-based

218 educational, social, medical, mental health and behavioral health services available to
219 assist families and children.

220 9. (a) Participation in community-based services shall be pursuant to a voluntary agreement of
221 the parent or legal guardian and the child. Families or children may terminate their involvement
222 at any time.

223 (b) Services may be provided for 120 days. After the initial 120 day period families or children
224 and the community-based services program case manager may agree to extend services for up
225 to an additional 90 days.

226 (c) Covered services shall be billed to the insurance provider for the client.

227 (d) The program shall advise the parents or legal guardian that they may be responsible for co-
228 payments for covered services and for contributing to the cost of non-covered services for the
229 child or family. Allowable rates for services not covered by insurance, including the portion for
230 which parents will be held responsible, shall be set by the secretary and periodically adjusted as
231 needed to meet actual costs.

232 (e) In the absence of the consent of a parent or legal guardian, respite care may be provided to a
233 child pursuant to the provisions and subject to the limitations of chapter 119 section 23
234 paragraph 7.

235 10. (a) Each family shall have a case manager who shall be responsible for working with the
236 family to develop a crisis stabilization plan where warranted and a family service plan;
237 coordinating services; assisting the family to resolve administrative issues including issues with
238 insurance coverage, interagency issues and other issues which serve as barriers to successful
239 implementation of the service plan; facilitating communication between providers as authorized

240 by the child or their parent or legal guardian; implementing resolution processes when
241 necessary; and working with the case staffing team to create an after care plan.

242 (b) The composition of the case staffing team shall be based on the needs of the family and child
243 and be chosen after consultation with the child and their parent or legal guardian. It shall
244 include the case manager, the primary providers of services to the child and family, a
245 representative from the child's school district. The case staffing team may also include other
246 individuals with professional expertise in health care, mental health care, behavioral health care,
247 substance abuse, social or educational services, or other persons recommended by the child,
248 parent or legal guardian, or case manager.

249 (c) The service engagement team shall be comprised of the Director of the Community- Based
250 Service Center or their designee, members of the local advisory board and other professionals
251 who are charged with developing engagement strategies for the Center and, at the request of
252 the child, parent or guardian, or the case manager, addressing barriers to the initial engagement
253 of individual children and their families.

254 (d) The case manager shall, in consultation with the family, develop a family service plan which
255 shall be provided to the child and their parent or legal guardian and other family members
256 requiring assistance who are involved in the plan within ten days of the initial referral. Upon
257 receipt of the plan, the child and each family member named in the plan shall accept or reject
258 the services and provisions in writing. Each service provider identified in the plan shall also
259 accept or reject their participation in writing. If the plan is accepted, it shall be implemented
260 immediately. If the child or family is not in agreement with the plan and attempts by the case
261 manager to develop an alternative plan are unsuccessful or when the services required are not
262 available, the child, their parent or guardian or the case manager may request review by the

263 service engagement team who shall assist the case manager, child and family in developing an
264 alternative plan.

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

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

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

271 (f) The case manager shall request a meeting of the family and child at a time and place that is
272 convenient to them with a case staffing team to review the family service plan of any family or
273 child whenever:

274 (i) the family or child is not in agreement with the services or treatment offered; or

275 (ii) the family or child does not participate in the services or treatment selected; or

276 (iii) a school state agency or private service provider does not provide the services or
277 treatment selected; or

278 (iv) the case manager needs assistance in developing an appropriate plan for the
279 provision and funding of services; or

280 (v) there is cause to believe that continuation of services is no longer appropriate
281 because the child has complex medical needs which cannot be met by the program or
282 where the child's behavior presents a significant risk of harm to the child himself the
283 family or the community.

284 (g) The parent or legal guardian or child who is over the age of 16 or any other member of the
285 case staffing team may make a written request that the case manager convenes a resolution
286 meeting at any time if the member finds that doing so is in the best interest of the family or
287 child. A resolution meeting requested by a parent or legal guardian or child who is over the age
288 of 16 must be convened within 7 working days from the date that the case manager receives the
289 request in writing.

290 11. (a) Not more than 110 days after the assessment and screening of a child and family referred
291 to or requesting community-based services, or 10 days prior to any extension of services
292 granted under paragraphs c and d of this section, the case manager shall convene a resolution
293 meeting with the case staffing team to assess whether the goals of the family service plan have
294 been achieved or if further services are in the best interest of the family and child. After the
295 meeting the case manager shall document the resolution of the case as follows:

296 (i) that the family and or child will benefit from additional community-based services; or

297 (ii) that it is unlikely the family and child will benefit from additional community-based
298 services at this time and the case is discharged; or

299 (iii) that the family failed to cooperate with the service plan and the case is discharged;

300 or

301 (iv) that the public or private agencies designated in the plan to provide specific services
302 did not provide those services and the case is discharged; or

303 (v) that the presenting behaviors are resolved and the case is discharged.

304 (b) Within 7 days after meeting, the case manager shall provide the parent or legal guardian

305 with a written report that details the reasons for the decisions made at the resolution

306 meeting. The report shall contain a notice in a form acceptable to the juvenile court stating that
307 community-based services have terminated and whether or not the case manager believes it is
308 likely that the child and family would benefit from further services.

309 (c) If the family, child and case manager agree to extend services, then the services shall be
310 extended for an additional 90 days.

311 (d) If the family was referred to community-based services by a court or a probation officer,
312 then services may be extended for additional 90 day periods at the request of the court or
313 probation officer.

314 12. (a) The report and any documentation of services provided to the family and child shall not
315 be public records. Statements made by the family and child while receiving services from the
316 program shall be treated as confidential. Such statements may not be used in school
317 disciplinary proceedings and may not be admitted into evidence in any court proceeding arising
318 from the circumstances which brought the family and child to the program unless the child and
319 family waive their privilege or unless a court finds that such inadmissibility would result in
320 substantial harm to the child.

321 (b) Any person offering community-based services to children under this program shall be
322 required to report suspected physical or emotional abuse or neglect of a child pursuant to
323 General Laws Chapter 119 Section 51A.

324 (c) Notwithstanding any provision to the contrary, in the absence of specific written directive
325 from the child and or member of the family who is receiving service, information about the case,
326 including interactions with service providers and protected health information services, may be
327 shared among members of the case team as needed to coordinate treatment and provide
328 appropriate case management.

329 13. There shall be an advisory council appointed by the secretary, which shall advise the
330 secretary on creation, operation, and effectiveness of the community-based services
331 program. Members shall include the commissioners or their designees of the departments of
332 public health, mental health, developmental services, children and families, youth services,
333 transitional assistance, elementary and secondary education and public safety, the director of
334 the office of Medicaid or his designee, the commissioner of probation or his designee, the chief
335 justice of the juvenile court or his designee, a district attorney, members of the bar who
336 represent children in juvenile court proceedings, a designee of the committee on public counsel
337 services, an education advocate, representatives of urban, suburban, and rural municipal police
338 departments and school districts, providers of service to children and families, parents, and at
339 least 2 young adults who have participated in a community-based services program.

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

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

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

348 Section 10. Within three years of the effective date of this act, the department shall, subject to
349 appropriation, establish a discretionary grant program to assist schools in planning and
350 implementing truancy preventions programs which meet the certification requirements
351 established pursuant to section 1P of Chapter 69.”

352 SECTION 3: Chapter 69 of the General Laws is hereby amended by adding after section 10 the
353 following new section:

354 Section 1P

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

358 SECTION 4:Chapter 119 of the General Laws is hereby amended by repealing Sections 39E to
359 39J, inclusive, and adding the following new sections:

360 Section 39K. Definitions

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

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

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

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

374 Section 39L. Jurisdiction

375 The Juvenile court department has original and exclusive jurisdiction over any
376 proceeding commenced under section 39N alleging that a family or child requires
377 assistance.

378 Section 39M. Nature of the Proceedings

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

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

385 Section 39N. Request for Assistance

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

389 (a) that the child repeatedly runs away from the home of his parents or legal
390 guardian or repeatedly fails to obey the lawful and reasonable commands of his
391 parents thereby resulting in said parent’s inability to adequately care for and

392 protect said child, or that the child is habitually truant or repeatedly fails to obey
393 the lawful and reasonable regulations of his school;

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

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

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

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

406 and

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

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

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

413 (a) a police officer;

414 (b) a parent;

415 (c) a school district;

416 3. The petitioner shall attach to the request for assistance the notice of termination of
417 community-based services as provided for in chapter 6A, section 16H(11)(b) or notice of
418 ineligibility as provided for in chapter 6A, section 16H(e). Except as provided below, the clerk
419 shall not accept for filing any request for assistance that does not have attached thereto said
420 notice of termination or ineligibility. Any person or agency seeking to file a request for
421 assistance pursuant to this section which does not have attached thereto the notice of
422 termination of community-based services shall be referred by the clerk of the court to the
423 program designated by the secretary of the executive office of health and human services to
424 provide community-based services in the juvenile court district where the child resides. If the
425 petitioner is a police officer, the clerk may accept a written statement of the reasons for the
426 officer's belief that the referral to community-based services prior to filing the request for
427 assistance would present a risk of harm to the child or others in lieu of the notice of termination
428 or ineligibility. The clerk shall then immediately contact the designated community-based
429 services to provide notice that a request for assistance has been filed. If the petitioner is a
430 parent, then the clerk may accept a written statement of the parents' reasons for the parents'
431 belief that referral to community based services prior to filing the request for assistance would
432 present a risk of significant harm to the child, family or community. The court shall then
433 immediately review the request for assistance and if the court finds that referral of the family

434 and child to community based services is likely to result in said harm, then the court shall order
435 the creation of a docket for the matter and assign a probation officer to conduct an immediate
436 inquiry and report to the court with advice on how to proceed to obtain assistance for the child.

437 Section 39O Notice

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

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

445 3. A copy of the request for assistance served or provided under subsection 1 or 2 shall be
446 accompanied by a notice that, in the event that the court deems it necessary to place the
447 child in the care and custody of the department of children and families, said parent may
448 be named as a respondent in any child support proceeding brought in connection with the
449 child's care

450 4. Unless service of the summons required by this section is waived in writing, such
451 summons shall be served by a constable or police officer, either by delivering it
452 personally to the person to whom addressed, or by leaving it with a person of proper age
453 to receive the same, at the place of residence or business of such person, and said

454 constable or police officer shall immediately make return to the court of the time and
455 manner of service.

456 Section 39P Scheduling the Fact Finding Hearing

457 The clerk shall set a date for a fact finding hearing no more than 90 days from the date
458 the request for assistance is filed. If at any time prior to the hearing the parents, child,
459 petitioner and probation officer agree, the fact finding hearing may be postponed for an
460 additional 90 days after the expiration of the initial 90 day period.

461 Section 39Q Appointment of Counsel

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

468 2. When the request for assistance is filed, each parent or legal guardian of the child shall
469 be informed that he has the right to participate as a party in any proceeding under sections
470 39K to 39X involving his child and that he has the right to counsel at any hearing or
471 proceeding regarding custody of his child. If said parent or legal guardian is financially
472 unable to retain counsel, the court shall appoint counsel for said parent or legal guardian.

473 3. The court shall determine whether the parent or legal guardian of a child alleged to
474 require assistance is indigent. If the court determines that the parent or legal guardian is
475 not indigent, the court shall assess a \$300 fee against the parent or legal guardian to pay
476 for the cost of counsel appointed for the child. If the parent or legal guardian is
477 determined to be indigent but is still able to contribute toward the payment of some of
478 said costs, the court shall order the parent or legal guardian to pay a reasonable amount
479 toward the cost of counsel appointed for the child.

480 Section 39R Preliminary Inquiry by Probation

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

484 The probation officer in his discretion may:

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

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

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

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

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

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

511 (c) The Commissioner of Probation shall report annually to the Child Advocate on the
512 assistance provided by probation officers to children and families under Sections 39K to

513 39X. The report shall be filed on October 1 of each year and shall include for each
514 juvenile court district: the number of children and families receiving assistance, an
515 analysis of the services provided and an identification of gaps in services available, the
516 status or resolution of each request for assistance filed in the previous year, and the
517 numbers of children who are the subject of a request for assistance and also charged with
518 a delinquency matter in the previous year,

519 3. Conferences and referrals arranged under this section may extend for a period not to
520 exceed 90 days from the date that the request for assistance was filed, unless the parent,
521 child and petitioner voluntarily agree in writing to a continuation of such conferences or
522 referrals for an additional period not to exceed 90 days from the expiration of the original
523 period. Upon the expiration of the initial 90 day period, or of such additional 90 day
524 period, the request for assistance may be dismissed and the child and his parents
525 discharged from any further obligation to participate in such conferences and referrals, or
526 a fact finding hearing shall be held.

527 Section 39S Custody, Failure to Appear

528 If, after a hearing at which the child is represented by counsel, the court finds that a child
529 alleged to require assistance by reason of repeatedly failing to obey the lawful and
530 reasonable commands of his parent is likely not to appear at the fact finding hearing or at
531 the disposition hearing, the court may place the child in the temporary custody of the
532 Department of Children and Families.

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

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

541 Section 39T Withdrawal of Request for Assistance

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

545 Section 39U Fact Finding Hearing

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

549 2. At the fact finding hearing the court shall review any notice of termination of
550 community-based services. The court shall consider any available documentation of
551 diligent attempts to provide appropriate services and determine whether such efforts or
552 services provided were sufficient. With the consent of the parent(s) and child the court

553 may consider any written reports from service providers which would otherwise be
554 subject to confidentiality or privilege.

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

560 3. The court shall either:

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

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

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

571 4. No statements made by a child, family member, or by any other person during the
572 period of inquiries, conferences, or referrals may be admitted at the fact finding hearing

573 without the consent of the child or family member who made the statement, but may be
574 received by the court at the hearing for disposition

575 Section 39V Disposition Hearing

576 1. At any hearing held to determine whether a child and family require assistance, the
577 child and his attorney shall be present and the parents or legal guardian shall be given an
578 opportunity to be heard. The petitioner who files the request for assistance shall bear the
579 burden of presenting evidence proving that the child and family require assistance. If the
580 court finds the allegations in the request for assistance have been proved at the fact
581 finding hearing by a preponderance of the evidence, it may find that the child and family
582 named in such request for assistance to be a child and family requiring assistance.

583 2. Upon making a finding that a child and family require assistance, the court shall
584 convene a meeting of the probation officer who conducted the preliminary inquiry, the
585 case manager, if any, from the community-based services program, the petitioner, a
586 representative from the child's school, the child's parent, a representative of the
587 department of children and families, and any other person the court deems helpful in
588 determining the assistance to be offered to the child and family. The persons at the
589 meeting shall present written findings to the court to advise the court on appropriate
590 treatment and services for the child and family and appropriate placement for the child
591 and appropriate conditions and limitations of such placement. The court, taking into
592 consideration those findings and the physical and emotional welfare of the child, may
593 make any of the following orders of disposition:

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

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

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

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

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

611 (c) subject to the provisions of sections 32 and 33 and with such conditions and
612 limitations as the court may recommend, place the child in the custody of the
613 department of children and families. If the court chooses to place the child in the
614 custody of the department then at the same time, the court shall consider the

615 provisions of section 29C and shall make the written certification and
616 determinations required by said section 29C. When the court has placed a child in
617 the custody of the department, then the department:

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

622 (ii) may not refuse out of home placement when requested
623 by the child if there is a substantiated history of abuse
624 and neglect in the home by the parent or legal guardian;

625 (iii) subject to clauses (i) and (ii), shall direct the type and
626 length of such out-of-home placement;

627 (iv) subject to clauses (i) and (ii), shall give due
628 consideration to the recommendations of the court.

629 Whenever the department decides not to carry out the
630 recommendations of the court regarding placement and
631 treatment of the child it shall present the reasons for its
632 decision and the alternative plan for treatment and
633 placement in writing to the court.

634 (d) The court may issue an order directing any state agency to provide particular
635 services to the family and child including but not limited to those services
636 described in clause (a). If the agency is not able to comply with the order

637 directing services then the agency shall provide to the court a written statement of
638 the reasons why it is unable to provide those services. A copy of the statement
639 shall be sent to the house and senate committees on ways and means and the joint
640 committee on children, families and persons with disabilities.

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

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

649 Section 39W Duration of Assistance

650 1. Any order of disposition under Section 39V shall continue in force for not more than
651 90 days; provided, however, that the court which entered the order may, after a hearing,
652 extend its duration for up to three additional periods, each such period not to exceed 90
653 days, if the court finds that the purposes of the order have not been accomplished and that
654 such extension would be reasonably likely to further those purposes. Orders shall be
655 extended upon a finding that the child or family are not participating in good faith.

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

658 Section 39X. Custodial Protection

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

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

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

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

677 (ii) forthwith and with all reasonable speed take the child directly, and without
678 first being taken to the police station house, to the program designated to provide

679 community-based services for the geographic region which constitutes the district
680 of the juvenile court department within which the child was taken into custodial
681 protection or in which the child resides,; or

682 (iii) release the child to a representative of the department of children and
683 families, if the law enforcement officer has reason to believe that the child is or
684 has been in the care or custody of such department; or

685 (iv) take the child directly to the juvenile court in which the act occasioning the
686 taking into custodial protection occurred, provided that the officer affirms on the
687 record that he or she attempted to exercise the options identified in paragraphs (i),
688 (ii), and (iii) of this subdivision, was unable to exercise these options, and the
689 reasons therefore.

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

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

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

698 SECTION 5

699 Notwithstanding any general law to the contrary the secretary of the executive office of
700 health and human services and the commissioners of departments of public health, mental
701 health, developmental services, children and families, youth services and transitional
702 assistance shall enter into memoranda of understanding among themselves and with the
703 department of education, office of the commissioner of probation, the juvenile court,
704 municipal police departments and school districts to provide coordination, delivery, and
705 funding of services to children and families who, pursuant to the provisions of section
706 16H(7)(b) of chapter 6A of the General Laws, are not eligible for community-based
707 services established pursuant to section 16H of chapter 6A.

708 SECTION 6

709 The secretary of the executive office of health and human services shall pilot a program to
710 address the unique needs of girls who run away from their parents and legal guardians.

711 SECTION 7

712 The department of education shall pilot a truancy prevention program using a restorative justice
713 format in at least one urban high school in the Commonwealth. The department shall evaluate
714 the effectiveness of the program in preventing truancy and enhancing the child's academic
715 performance and report the results of that evaluation to the board of education.

716 SECTION 8.

717 Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 3 of the first
718 paragraph, the word "sixteen" and inserting in place thereof the following word:-
719 eighteen.

720 SECTION 9.

721 Chapter 741 of the Acts of 1965 is hereby amended by striking out, in line 4 of the second

722 paragraph, the word "sixteen" and inserting in place thereof the following word:-

723 eighteen

