

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

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. Whereas families in the Commonwealth whose children are truant, runaway
2 or acting in a fashion that interferes with their parent’s ability to adequately care for and protect
3 said children are families in crisis and often require the assistance of government agencies,
4 including schools, human service agencies and the courts, as well as non-governmental service
5 providers; and;

6 Whereas the issues facing said children and families are complex and the
7 services which would best assist such families are not always available from a single agency or
8 department of the Commonwealth; and

9 Whereas the collaboration among multiple public and private agencies and
10 offices is required to ensure that all children and families receive the services they need to
11 succeed; and

12 Whereas services are not consistently available in all communities;

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

15 SECTION 2. The General Laws as appearing in the 2008 Official Edition are
16 hereby amended by adding after section 16S of chapter 6A the following new section:

17 Section 16T. Community based services for families and children

18 (a) It is the intent of the General Court to create an accountable, community-based
19 services network that provides consistent services throughout the Commonwealth to address the
20 needs of children requiring assistance and their families by providing them with an array of
21 resources. The goal of said system is to preserve and strengthen families while ensuring the

22 healthy behavioral, social and educational development of the child and to provide opportunities
23 to divert children from the juvenile justice and child protection systems. These services shall
24 focus on creating a stable environment and strengthening the family as a whole while
25 emphasizing parental responsibility. These services shall also focus on assisting children who are
26 at risk of dropping out of school.

27 Said community-based services network shall consist of a network of family resource
28 centers where public and private providers will provide service coordination, referrals and
29 services in the community as a timely response to children and families requiring assistance. The
30 system shall include a mechanism for the collection and analysis of information which will
31 enable the Commonwealth to evaluate the effectiveness of the network of family resource
32 centers and to identify gaps in services. It is the intent of the General Court to reserve judicial
33 intervention for those children and families who require services not available through the
34 community based services network and family resource centers in order to stabilize the child and
35 family and to achieve resolution of the crisis.

36 Nothing in this act is intended to diminish or interfere with the responsibility of the
37 commonwealth or municipalities to provide educational services as required by state and federal
38 law. The creation of said community based service network and family resource centers are
39 subject to appropriation and services provided shall be limited by the availability of funds and
40 third party reimbursement.

41 (b) For the purpose of this Section the following words shall have the following
42 meanings:

43 “Child requiring assistance”, a child between the ages of 6 and 18 who (a) repeatedly
44 runs away from the home of his parents, legal guardian, or custodian; (b) repeatedly fails to obey
45 the lawful and reasonable commands of his parents, legal guardian, or custodian, thereby
46 interfering with said parent’s, legal guardian’s, or custodian’s ability to adequately care for and
47 protect said child; (c) repeatedly fails to obey the lawful and reasonable regulations of his school;
48 or (d) who is habitually truant;

49 “Community-based services”, services, including coordination of services, that are
50 designed to assist families with children requiring assistance so that, where appropriate, such
51 children will be able to: (a) continue residing with their families in their home communities; (b)
52 continue as students in their community schools; and (c) enjoy strengthened relationships with
53 their families.

54 “Family with children requiring assistance”, the parents, guardians, custodian, siblings,
55 and any other relatives or caretakers who are responsible for a child requiring assistance.

56 “Habitually truant”, a school-aged child not otherwise excused from attendance in
57 accordance with the lawful and reasonable regulations of his school who fails to attend school
58 for more than 8 school days in a quarter or 10 days in a school year;

59 “Secretary”, the secretary of the Executive Office of Health and Human Services.

60 (c) Subject to appropriation or third party reimbursement, the secretary shall:

61 (1) establish a network of child and family service programs
62 and family resource centers throughout the Commonwealth to provide community-based services
63 to families with children requiring assistance. The network of community-based services
64 programs and family resource centers shall assist families so that whenever possible children will
65 be able to continue residing with their families in their home communities; assist families to
66 enable children to continue as students in their community schools; strengthen the relationships
67 between children and families; and provide coordinated, comprehensive, community-based
68 services for children at risk of dropping out of school, committing delinquent acts, or engaging in
69 behaviors which impede the likelihood of their leading healthy, productive lives.

70 (2) develop guidelines and standards necessary to achieve and
71 maintain on a statewide basis a comprehensive and integrated network of community based
72 services and family resource centers for children and families.

73 (3) seek to promote efficiency and access to existing services in
74 establishing the network by including: organizations that are part of the comprehensive
75 community-based behavioral health delivery system coordinated by the secretary under section
76 16S; organizations that provide services or have experience in coordinating access to
77 community-based services such as local schools; other local public agencies, private
78 organizations, and medical, behavioral or mental health care providers. (4)

79 coordinate the services provided by the network and in the family resource centers which
80 may include outreach, intake, screening, assessment and referral to services. Services offered
81 through the network shall include, but are not limited to treatment for or assistance with:
82 eligibility determinations, behavioral, medical, and mental health needs, special education
83 evaluation, remedial education services, assistance with insurance issues, mentoring, family and
84 parent support, civic engagement and community service, after school and out-of-school
85 opportunities, residential programs, crisis management and case management. The secretary
86 shall encourage cooperation among local providers as needed to provide the full complement of
87 services required under this section.

88 (5) monitor and provide technical assistance to family
89 resource centers and providers of community based services.

90 (6) require the use of a standard intake screening and
91 assessment tool to evaluate all families and children seeking community based services which

92 shall identify the family's strengths, resources and service needs such as mental health,
93 behavioral health or substance abuse treatment, basic family shelter, clothing and food needs,
94 child care needs, health insurance status, legal issues, education placement and child protection.
95 (7) create a data collection system for use by programs within the community based services
96 network and family resource centers which maintains the privacy of clients served, assists
97 programs and the secretary in addressing the needs of the population to be served, collects
98 information related to, among other things, the insurance status and benefit coverage of clients
99 served, income documentation as needed to apply a sliding fee scale for payment or waiver of
100 payment for services, and other information that may assist the program and the secretary in
101 providing services, identifying service needs and gaps, and evaluating the effectiveness of the
102 family resource centers and the community based services network.

103 (d) Any documentation of services provided to the family and child through the
104 network of community based services or at the family resource centers shall not be public
105 records. Except as otherwise required by law, including laws related to the reporting of
106 suspected abuse or neglect under section 51A of chapter 119, statements made by the family and
107 child while receiving services from the network of community based services shall be treated as
108 confidential and may not be used in any proceedings without the written consent of the person
109 making the statement. Information about the child and family requiring assistance, including
110 interactions with service providers and protected health information services, may be shared
111 among providers of community services providing such services to the child and family as well
112 as with any agency within the executive office of health and human services providing services
113 to the child as needed to coordinate treatment and provide appropriate case management.
114 Notwithstanding any general or special law to the contrary, information about the child and
115 family, including interactions with service providers and protected health information services,
116 may be shared among members of the case team as needed to coordinate treatment and provide
117 appropriate case management, to the extent permitted under applicable federal law, unless the
118 child or family decline in writing to permit such information sharing.

119 (e) Participation in community based services and use of the family resource
120 centers shall be pursuant to a voluntary agreement of the parent, legal guardian, or custodian and
121 the child; provided however that provision of community based services shall be contingent upon
122 parents, legal guardians and custodians granting consent to allow covered services to be billed to
123 the insurance providers.

124 (f) Except as provided herein, a school administrator shall refer a child to a
125 family resource center or a community based services program at the same time that the
126 administrator notifies the student and his parent, legal guardian, or custodian that the student will
127 be expelled for failure to comply with the lawful and reasonable rules of the school. After
128 providing the process that is due the student, including an expulsion hearing if requested under
129 section 37H of chapter 71, the school administrator shall consider the outcome of the
130 community-based services if the student provides that information to the school. When a school

131 administrator refers a child for habitually truant behavior, it must be shown that the school, child,
132 and family have completed a department of education certified truancy program, if such a
133 program is available at the school. Whenever a child or family seeks assistance from a family
134 resource center or community based service network program for habitually truant behavior, the
135 program staff shall assist the family in gaining access to the child's school's certified truancy
136 program.

137 SECTION 3. Chapter 69 of the General Laws, as appearing in the 2008 Official
138 Edition, is hereby amended by adding after section 1N the following new section:-

139 Section 10. The department of elementary and secondary education shall
140 promulgate regulations establishing a truancy prevention program certification process. The
141 regulations shall be consistent with the schools and behavioral health framework developed by
142 the department under section 19 of chapter 321 of the acts of 2008 and shall include
143 requirements that the truancy prevention program evaluate the level of out-of-school support for
144 students and families, and address the conditions that may make students more likely to become
145 truant, including previously unidentified or inadequately addressed special needs, bullying and
146 harassment. School districts shall establish a truancy prevention program which meets the
147 requirements for certification by the department.

148 SECTION 4. Section 21 of Chapter 119 of the General Laws, as appearing in
149 the 2008 Official Edition, is hereby amended by striking lines 8 to 16 and inserting in place
150 thereof the following:-

151 "Child requiring assistance", a child between the ages of 6 and 18 who (a) repeatedly
152 runs away from the home of his parents or legal guardian; (b) repeatedly fails to obey the lawful
153 and reasonable commands of his parents or legal guardian, thereby interfering with said parent's
154 or legal guardian's ability to adequately care for and protect said child; (c) repeatedly fails to
155 obey the lawful and reasonable regulations of his school; (d) who is a habitual truant;

156 SECTION 5. Section 21 of Chapter 119 of the General Law, as appearing in the
157 2008 Official Edition, is hereby amended by adding the following definitions:

158 "Family requiring assistance", the parents, guardians, siblings and any other relatives or
159 caretakers responsible for a school aged child who needs assistance.;

160 "Habitual truant", a school-aged child, not otherwise excused from attendance in
161 accordance with the lawful and reasonable regulations of his school, who willfully fails to attend
162 school for more than 8 school days in a quarter or 10 days in a year;

163 SECTION 6. Section 21 of Chapter 119 of the General Laws, as appearing in
164 the 2008 Official Edition, is hereby amended at line 54 by inserting at the end thereof the
165 following sentence:

166 For purposes of sections 39L through 39Y exclusive the word “Parent”, includes a legal
167 guardian or other person legally responsible for a child’s care.

168 SECTION 7. Chapter 119 of the General Laws is hereby amended by striking out
169 sections 39E to 39J, inclusive, and inserting in place thereof the following new sections:

170 Section 39K. Jurisdiction

171 The juvenile court department has original and exclusive jurisdiction over any proceeding
172 commenced under section 39M alleging that a child and his family requires assistance. The
173 jurisdiction of the Boston juvenile court for the subject matter of this section shall extend to the
174 territorial limits of Suffolk County.

175 Section 39L. Nature of the Proceedings

176 (a) Proceedings under sections 39K to 39Y, inclusive, shall not be deemed criminal
177 proceedings and any record of these proceedings, including the filing of a request for assistance
178 and creation of a docket, shall not be entered in the criminal offender record information system.

179 (b) Notwithstanding any general or special law to the contrary, no record pertaining to the
180 child involved in the proceedings shall be maintained or remain active after the request for
181 assistance is dismissed. The identity and record of any child for which a request for assistance is
182 filed shall not be submitted to the criminal history systems board, criminal offender record
183 information system, court activity record index or any other criminal record information system.

184 (c) Proceedings under sections 39K to 39Y, inclusive, shall be confidential and
185 not be open to the public.

186 Section 39M. Request for Assistance

187 (a) A proceeding to determine whether or not a child and his family requires assistance is
188 originated by the filing of a request for assistance, stating the petitioner’s information and belief :

189 (1) that the child repeatedly runs away from the home of his parents
190 or legal guardian or repeatedly fails to obey the lawful and reasonable commands of his parents
191 thereby resulting in said parent’s inability to adequately care for and protect said child, or that
192 the child repeatedly fails to obey the lawful and reasonable regulations of his school or is
193 habitually truant;

194 (2) that the child was under the age of 18 at the time the specified
195 acts took place;

196 (3) specific acts on which the request for assistance is based and the
197 time and place they are believed to have occurred;

198 (4) that the child and his family require assistance;

199 (5) when the petitioner is a school district, the request for assistance
200 shall additionally include the following:

201 (i) if the request for assistance states that a child is
202 habitually truant, a statement of the actions taken by the school district to comply with its
203 obligations under its truancy prevention program certified pursuant to section 10 of chapter 69
204 and to improve the school attendance of the child. The request for assistance shall also state
205 whether or not the child and his family have participated in the truancy prevention program and a
206 statement of the specific steps taken under the truancy prevention program to prevent the child's
207 truancy; and

208 (ii) if the request for assistance states that a child has
209 repeatedly failed to obey the lawful and reasonable regulations of the school, a statement of the
210 specific steps taken by the school to improve the child's conduct;

211 (6) when the petitioner is a parent, the request for assistance shall
212 additionally include documentation that the family was informed of and referred to a
213 community-based services program or family resource center under section 16T of chapter 6A.

214 (b) The following persons may originate a proceeding under this section:

215 (1) a police officer;

216 (2) a parent;

217 (3) a school district, but only if the request states that the child
218 repeatedly fails to obey the lawful and reasonable regulations of his school or is habitually
219 truant;

220 (c) (1) When a request for assistance is presented to the clerk for filing the clerk
221 shall consult with a department of children and families court liaison to determine whether or not
222 the child and family named in the petition have received services from a community service
223 program or family service center created under section 16T of chapter 6A. If the child and
224 family have participated in such services, the clerk shall attach to the request a statement of the
225 petitioner that identifies the family resource center or community based services program that
226 provided assistance. If the child and family have not participated in such services the clerk shall
227 inform the petitioner that they may delay filing the request for assistance and that the petitioner
228 may chose to first refer the child and his family to the family resource center or community
229 based services program designated by the secretary of the executive office of health and human
230 services to provide community-based services in the juvenile court district where the child
231 resides and at a later time return to court and file a request for assistance if needed.

232 (2) (i) If the petitioner is a parent, the clerk shall offer to
233 contact the department of children and families court liaison or the family resource center or
234 community based services program designated by the secretary of the executive office of health
235 and human services on the parent's behalf in order to complete a referral to such family resource
236 center or community based services program. If the parent declines to be referred to such center
237 or program, the clerk shall provide to the parent informational materials prepared by the court
238 which explain the nature of services available through the court process, the manner in which
239 those services will be delivered, the nature of the orders which the court may issue and the
240 possibility of changes in the custody of the child. The clerk may then accept the request for
241 assistance for filing and attach to it the parent's signed statement that the parent does not wish to
242 be referred to such services and that the parent understands the nature of services available
243 through the court process, the manner in which those services will be delivered, the nature of the
244 orders which the court may issue and the possibility of changes in the custody of the child.

245 (ii) If the petitioner is a police officer, the clerk shall offer
246 to contact department of children and families court liaison or the family resource center or
247 community based services program designated by the secretary of the executive office of health
248 and human services in order to complete a referral to such services. The clerk may accept a
249 written statement of the reasons for the officer's belief that the referral to community-based
250 services prior to filing the request for assistance would present a risk of harm to the child. The
251 clerk shall then (A) immediately contact the department of children and families court liaison
252 and the designated family resource center or community based services program to provide
253 notice that a request for assistance has been prepared for filing, (B) create a docket for the matter
254 and (C) request that the chief probation officer, or his designee, conduct an immediate inquiry
255 and report to the clerk, or a judge if the clerk is not available with advice on how to proceed to
256 obtain assistance for the child. After considering such advice the clerk may accept the request
257 for assistance for filing.

258 Section 39N. Notice

259 (a) Except as provided in subsection (b), upon the filing of a request for assistance
260 pursuant to this section, the court shall cause a copy of the request for assistance and a summons
261 to be issued, requiring the child and each parent, to appear at the court at a time and place named
262 to address the request for assistance. Where the safety and wellbeing of the child or other parent
263 is in danger, only the primary custodial parent shall be required to appear.

264 (b) In proceedings commenced by a parent, the court shall, at the time the request is filed,
265 notify the parent in writing of the time and place that the request for assistance will be heard to
266 ensure the parent has a copy of the request for assistance. If the parents are not living together,
267 the court shall cause a copy of the request for assistance and a summons to be issued, requiring
268 the child and the parent who did not initiate the request for assistance to appear to address the
269 request for assistance at the court at a time and place named, except in cases where the safety and

270 wellbeing of the child or other parent is in danger, then only the primary custodial parent shall
271 attend.

272 (c) A copy of the request for assistance served or provided under subsection (a) or (b)
273 shall be accompanied by a notice that, in the event that the court deems it necessary to place the
274 child in the care and custody of the department of children and families, said parent may be
275 named as a respondent in any child support proceeding brought in connection with the child's
276 care.

277 (d) Unless service of the summons required by this section is waived in writing, such
278 summons shall be served by a constable or police officer, either by delivering it personally to the
279 person to whom addressed, or by leaving it with a person of proper age to receive the same, at
280 the place of residence or business of such person, and said constable or police officer shall
281 immediately make return to the court of the time and manner of service.

282 Section 39O. Determination of probable cause that a child and family require
283 assistance; Expungement.

284 Whenever a request for assistance is filed, the clerk, or a judge if the clerk is
285 not available, shall hold a hearing as soon as possible, but not later than 15 days after the creation
286 of a docket. At that hearing the clerk, or a judge if the clerk is not available, shall receive the
287 recommendation of the probation officer and receive evidence from the petitioner and the child.
288 The clerk, or the judge shall determine (i) whether or not there is probable cause for a
289 determination that a child and family are in need of assistance and (ii) whether it is in the best
290 interest of the child for the matter to proceed to a fact finding hearing. The clerk or judge shall
291 then either i) dismiss the request for assistance, or (ii) create a docket for the matter, unless a
292 docket has already been created under section 39M(b), and refer the child and family to a
293 probation officer for the preliminary inquiry under section 39R. When a request for assistance is
294 dismissed under this section, the court shall enter an order directing the expungement of any
295 records of the claimant maintained by the clerk, the court, the criminal history systems board,
296 the court activity record index, and the probation department that directly pertain to the request
297 for assistance.

298 Section 39P. Scheduling the Fact Finding Hearing

299 At the conclusion of the probable cause hearing required by section 39O, the
300 clerk shall set a date for a fact finding hearing no more than 90 days from the date the request for
301 assistance was filed. The court may postpone the fact finding hearing upon the request of the
302 parents, child, petitioner or probation officer for an additional 90 days after the expiration of the
303 initial 90 day period.

304 Section 39Q. Appointment of Counsel

305 (a) When the request for assistance is filed the child shall be informed that he has a right
306 to counsel at all hearings. At the time the request for assistance is filed, that court shall ensure
307 that if said child is not able to retain counsel, the court shall at that time appoint counsel for said
308 child. The clerk shall cause a copy of the request for assistance and notice of the time and place
309 of the fact finding hearing to be delivered to counsel at the time of appointment.

310 (b) When the request for assistance is filed, each parent or legal guardian of the child
311 shall be informed that he has the right to participate as a party in any proceeding under sections
312 39K to 39Y involving his child and that he has the right to counsel at any hearing or proceeding
313 regarding custody of his child. If said parent or legal guardian is financially unable to retain
314 counsel, the court shall appoint counsel for said parent or legal guardian.

315 (c) The court shall determine whether the parent or legal guardian of a child alleged to
316 require assistance is indigent. If the court determines that the parent or legal guardian is not
317 indigent, the court shall assess up to a \$1000 fee against the parent or legal guardian to pay for
318 the cost of counsel appointed for the child. If the parent or legal guardian is determined to be
319 indigent but is still able to contribute toward the payment of some of said costs, the court shall
320 order the parent or legal guardian to pay a reasonable amount toward the cost of counsel
321 appointed for the child or for the parent.

322 Section 39R. Preliminary Inquiry by Probation

323 (a) When requested by the court or a clerk, the chief probation officer or his designee
324 shall conduct a preliminary inquiry to determine whether in his opinion the best interests of the
325 child and family require that crisis intervention services be provided to the child and family.

326 The probation officer in his discretion may:

327 (1) refer the family and child to a community-based services program
328 in the community where the child resides;

329 (2) confer with the family resource center or any provider of
330 community-based services;

331 (3) refer the child to an appropriate public or private organization or
332 person for psychiatric, psychological, educational, occupational, medical, dental or social
333 services;

334 (4) conduct conferences with the child, the child's family and the
335 petitioner for the purpose of finding ways to resolve the situation which formed the basis of the
336 request for assistance. Information obtained by the probation officer may be used in the present
337 proceeding but it is otherwise confidential and may not be used in school disciplinary
338 proceedings or other court proceedings.

339 (b) If the child or his parents fail to participate in good faith with the referrals
340 or conferences arranged by the probation officer or if the probation officer is not able to refer the
341 child or his parents to an appropriate public or private organization which is willing and able to
342 provide appropriate services, the probation officer shall so certify in writing and present these
343 findings to the clerk or judge.

344 (c) (1) The commissioner of probation shall establish a system to collect data on
345 all requests for assistance made and how they are resolved under sections 39K through 39Y.
346 Said system shall maintain the privacy of clients served, assist the court in addressing the needs
347 of the population to be served and collect information related to: the racial and ethnic identity of
348 the child; the insurance status and coverage of clients served; the length of time a child is
349 receiving assistance from a probation officer, including the time prior to and subsequent to the
350 filing of a request for assistance; the identity of any public or private organization to whom a
351 probation officer has referred a child or family for services; and any other information that may
352 assist the commissioner and the court in evaluating the availability and effectiveness of services
353 for children who are the subjects of requests for assistance pursuant to this section.

354 (2) The probation officer shall gather information concerning each
355 child and family referred to the officer which in both substance and format is compatible with
356 and complementary to the information gathered by the family resource centers and programs
357 providing community-based services pursuant to section 16T of chapter 6A, including but not
358 limited to the insurance status and coverage and other information that may assist the
359 commissioner of probation and the court in evaluating the availability and effectiveness of
360 services for children who are the subjects of requests for assistance pursuant to this section.

361 (3) The commissioner of probation shall report annually to the child
362 advocate, the Families and Children Engaged in Services advisory board, the house and senate
363 committees on ways and means, joint committee on children, families and persons with
364 disabilities and the joint committee on the judiciary on the assistance provided by probation
365 officers to children and families under Sections 39K to 39Y. The report shall be filed on October
366 1 of each year and shall include for each juvenile court district: the number of children and
367 families receiving assistance; their racial and ethnic identity, as identified by the child and family
368 members; an analysis of the services provided and an identification of gaps in services available;
369 the status or resolution of each request for assistance filed in the previous year; and the numbers
370 of children who are the subject of a request for assistance and also charged with a delinquency
371 matter in the previous year. The report shall exclude information that identifies or allows others
372 to identify any child or family who is the subject of a request for assistance.

373 Section 39S. Custody, Failure to Appear

374 If, after an evidentiary hearing, the court finds by a preponderance of the
375 evidence that a child stated to require assistance by reason of repeatedly running away from the

376 home of his parents or legal guardian or repeatedly failing to obey the lawful and reasonable
377 commands of his parent, is likely not to appear at the fact finding hearing or at the disposition
378 hearing, the court may order the child to be released upon such terms and conditions as it
379 determines to be reasonable or may place the child in the temporary custody of the department of
380 children and families. The court may not order the child to be placed in the custody of the
381 department of youth services. Prior to the court granting temporary custody to the department of
382 children and families, the court must make a written certification and determination that it is
383 contrary to the welfare of the child to be in his home, and that the department of children and
384 families has made reasonable efforts to prevent removal of the child from his home or the
385 existing circumstances indicate that there is an immediate risk of harm or neglect which
386 precludes the provision of the preventative services as an alternative to removal.

387 An order placing a child with the department under this section shall be valid
388 for no more than 15 days, upon which the child and his parents, both represented by counsel,
389 must be brought again before the court for a hearing on whether the order should be continued
390 for another 15 day period. If the court decides to extend the order, it shall note in writing the
391 detailed reasons for its decision. Orders under this section may be in effect for no more than 45
392 days total.

393 A child who is the subject of a request for assistance may not be confined in
394 shackles or similar restraints or in a court lockup facility in connection with any proceedings
395 under Sections 39K through 39Y, inclusive. A child who is the subject of a request for
396 assistance shall not be placed in a locked facility or any facility designated or operated for
397 juveniles who are alleged to be delinquent or who have been adjudicated delinquent. However,
398 such child may be placed in a facility which operates as a group home to provide therapeutic care
399 for juveniles regardless of whether juveniles adjudicated delinquent are also provided care in
400 such facility.

401 Section 39T. Withdrawal of Request for Assistance

402 The petitioner may, withdraw the request for assistance at any time prior to a
403 hearing to determine the disposition of a request for assistance. A probation officer may at any
404 time recommend to the court that the request for assistance be dismissed upon a showing that
405 dismissal is in the best interests of the child.

406 Section 39U. Fact Finding Hearing

407 (a) The court shall hold a fact finding hearing in which it shall receive evidence from the
408 petitioner, the parent, the child, a representative from the family resource center or community
409 based services program, if involved with the family, and the probation officer. At any hearing
410 held to determine whether a child and family require assistance, the child and his attorney shall
411 be present and the parents or legal guardian shall be given an opportunity to be heard. The

412 petitioner who files the request for assistance shall bear the burden of presenting evidence
413 proving beyond a reasonable doubt that the child and family require assistance.

414 (b) Following a fact finding hearing the court shall either:

415 (1) dismiss the request for assistance because the circumstances
416 which led to the filing of a request for assistance have been resolved or the court finds that the
417 child and family will not benefit from the assistance being offered;

418 (2) adjourn the hearing for up to 60 days because it finds that the
419 interests of the child would best be served by continued informal assistance, in which case the
420 court shall, with the consent of the child and his parent, refer the child to a probation officer or
421 refer the child and family to the designated family resource center or community based services
422 program for additional assistance; or

423 (3) If the court finds the statements included in the request for
424 assistance have been proved at the fact finding hearing beyond a reasonable doubt, it may find
425 that the child and family named in such request for assistance to be a child and family requiring
426 assistance and schedule a hearing for disposition.

427 (c). No statements made by a child, family member, or by any other person during the
428 period of inquiries, conferences, or referrals may be admitted at any hearing, provided that the
429 child or a family member who made the statement may consent in writing to admitting such a
430 statement.

431 Section 39V. Disposition Conference and Hearing

432 (a). Upon making a finding that a child requires assistance after a fact finding hearing, the
433 court shall convene and may participate in a conference of the probation officer who conducted
434 the preliminary inquiry, a representative from the family resource center or other community
435 based services program, if involved with the family, the petitioner, a representative from the
436 child's school, the child's parent and his attorney, the child and his attorney, a representative of
437 the department of children and families, if involved with the family, and any other person who
438 may be helpful in determining the most effective assistance available to be offered to the child
439 and family. The probation officer shall present written recommendations and other persons at
440 the conference may present written recommendations to the court to advise the court on
441 appropriate treatment and services for the child and family, appropriate placement for the child,
442 and appropriate conditions and limitations of such placement.

443 At the conference and subsequent hearing on disposition, the child and his attorney shall
444 be present and the parents or legal guardian and the petitioner shall be given an opportunity to be
445 heard. The court may receive evidence as to the best disposition from all persons who

446 participate in the conference and any other person who may be helpful in determining an
447 appropriate disposition.

448 (b). The court shall then conduct a dispositional hearing. The court, taking into
449 consideration the evidence admitted at the hearing, the report of the probation officer, and the
450 physical and emotional welfare of the child, may make any of the following orders of
451 disposition:

452 (1) subject to any conditions and limitations the court may prescribe,
453 including: provisions for medical, psychological, psychiatric, educational, occupational and
454 social services; and for supervision by a court clinic or by any public or private organization
455 providing counseling or guidance; and for any other services deemed appropriate by the court,
456 permit the child to remain with his parents;

457 (2) subject to such conditions and limitations as the court may
458 prescribe, including, but not limited to provisions for services deemed appropriate by the court,
459 including but not limited to services described in clause (1), place the child in the care of any of
460 the following:

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

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

467 (3) subject to the provisions of sections 32 and 33 and with such
468 conditions and limitations as the court may recommend, place the child in the custody of the
469 department of children and families. If the court chooses to place the child in the custody of the
470 department then at the same time, the court shall consider the provisions of section 29C and shall
471 make the written certification and determinations required by said section 29C. When the court
472 has placed a child in the custody of the department, then the department:

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

476 (ii) may not refuse out of home placement when
477 requested by the child if there is a substantiated history of abuse or neglect in the home by the
478 parent or legal guardian or any other person living in the home;

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

481 (iv) subject to clauses (i) and (ii), shall give due
482 consideration to the recommendations of the court. Whenever the department decides not to
483 carry out the recommendations of the court regarding placement and treatment of the child it
484 shall present the reasons for its decision and the alternative plan for treatment and placement in
485 writing to the court.

486 (4) The court may issue an order directing any state agency to
487 provide particular services to the family and child including but not limited to those services
488 described in clause (b)(1). If the agency is not able to comply with the order directing services
489 then the agency shall provide to the court a written statement of the reasons why it is unable to
490 provide those services. A copy of the statement shall be sent to the house and senate committees
491 on ways and means and the joint committee on children, families and persons with disabilities
492 and the office of the child advocate.

493 (5) Where the family or child are directed by the court to participate
494 in treatment or services which are eligible for coverage by an insurance plan under section 22 of
495 chapter 32A, section 10F of chapter 118E, section 47B of chapter 175, section 8A of chapter
496 176A, or section 4A of chapter Ch.176B Sec.4A, payment for such services shall not be denied if
497 the treatment or services otherwise meet the criteria for health plan coverage.

498 Section 39W. Prohibition on placements with the department of youth services
499 or in locked facilities

500 (a) Notwithstanding the provisions of subsection (b)2(ii) of section 39V, the court may
501 not order the child to be placed in the custody of the department of youth services.

502 (b) A child found to require assistance shall not be placed in a locked facility or any
503 facility designated or operated for juveniles who are alleged to be delinquent or who have been
504 adjudicated delinquent. However, such child may be placed in a facility which operates as a
505 group home to provide therapeutic care for juveniles regardless of whether juveniles adjudicated
506 delinquent are also provided care in such facility.

507 Section 39X. Duration of Assistance

508 (a) Any order of disposition under Section 39V shall continue in force for not more than
509 120 days; provided, however, that the court which entered the order may, after a hearing, extend
510 its duration for up to three additional periods, each such period not to exceed 90 days, if the court
511 finds that the purposes of the order have not been accomplished and that such extension would
512 be reasonably likely to further those purposes. The child and parents shall have the opportunity
513 to present evidence and rebut evidence presented at any extension hearing.

514 (b) No order shall continue in effect after the nineteenth birthday of a child named in a
515 request for assistance.

516

Section 39Y. Custodial Protection

517 (a) (1) A child may be taken into custodial protection for engaging in the
518 behaviors described in section 39M, only if such child has failed to obey a summons issued
519 pursuant to section 39N, or if the law enforcement officer initiating limited custody has probable
520 cause to believe that such child has run away from the home of his parents or legal guardian and
521 will not respond to a summons.

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

526 (3) After making every reasonable effort to give notice under
527 paragraph (2), the officer shall:

528 (i) release the child to the custody of his or her parent
529 or other person legally responsible for his or her care upon the written promise, without surety,
530 of the person to whose custody the child is released that he will bring the child to the court on the
531 next court date ; or

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

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

540 (iv) take the child directly to the juvenile court in which the
541 act occasioning the taking into custodial protection occurred, provided that the officer affirms on
542 the record that he attempted to exercise the options identified in paragraphs (i), (ii), and (iii) of
543 this subsection, was unable to exercise these options, and the reasons therefore.

544 (4) In the absence of special circumstances, the officer shall release
545 the child to his parents or other person legally responsible for his care in accordance with
546 paragraph (3)(i).

547 (5) A child may not be securely detained in a police station or town
548 lockup. At no time shall a child be placed in a locked facility or any facility designated or
549 operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent.
550 However, such child may be placed in a facility which operates as a group home to provide

551 therapeutic care for juveniles regardless of whether juveniles adjudicated delinquent are also
552 provided care in such facility.

553 (6) Notwithstanding the foregoing requirements for placement, any
554 such child who has been taken into custodial protection shall, if necessary, be taken to a medical
555 facility for treatment or observation.

556 SECTION 8. Chapter 741 of the Acts of 1965 is hereby amended by striking out,
557 in line 3 of the first paragraph, the word "sixteen" and inserting in place thereof the following
558 word:- eighteen.

559 SECTION 9. Chapter 741 of the Acts of 1965 is hereby amended by striking
560 out, in line 4 of the second paragraph, the word "sixteen" and inserting in place thereof the
561 following word:- eighteen

562 SECTION 10. Subject to appropriation, the department of elementary and
563 secondary education shall pilot a truancy prevention program using a restorative justice format in
564 at least one urban high school in the Commonwealth. The program shall include the use of
565 healing circles which allow family, neighborhood and school community members to be present;
566 a reparative board, comprised of peers and led by an adult; family group counseling, and
567 mediation or alternative dispute resolution with the child, family members and school
568 representatives. The program shall be designed to address the underlying causes both in and out
569 of school which led to truancy. The program shall be consistent with and organized according to
570 the schools and behavioral health framework developed by the department under section 19 of
571 chapter 321 of the acts of 2008. The department shall evaluate the effectiveness of the program
572 in preventing truancy and enhancing the child's academic performance and report the results of
573 that evaluation to the board of elementary and secondary education, the house and senate
574 committees on ways and means, joint committee on education, the department of elementary and
575 secondary education and the child advocate.

576 SECTION 11. Subject to appropriation, the secretary of the executive office of
577 health and human services shall pilot a program to address the unique needs of girls who run
578 away from their parents and legal guardians.

579 SECTION 12. Within 12 months of the effective date of this act, the
580 Commissioner of Probation shall submit a report to the child advocate, the Families and Children
581 Engaged in Services advisory board, the house and senate committees on ways and means, joint
582 committee on children, families and persons with disabilities and the joint committee on the
583 judiciary. The report shall include for each juvenile court district: the number of children and
584 families receiving assistance from probation officers; the racial and ethnic identity of the
585 children and families, as identified by the child and family members; an analysis of the services
586 provided and an identification of gaps in services available; the status or resolution of each
587 request for assistance filed under section 39M of chapter 119; the number of children who are the

588 subject of a request for assistance and also charged with a delinquency matter in the previous
589 year; and the custody status of the child that is subject to the request for assistance, specifying if
590 the child is in the custody of the department of children and families or committed to the care of
591 the department of youth services. The report shall exclude information that identifies or allows
592 others to identify any child or family involved in the juvenile justice system.

593 Advisory board to guide implementation and monitor the new system

594 SECTION 13. (a) There shall be established within the executive office of
595 health and human services but not subject to the control of said executive office a Families and
596 Children Requiring Assistance Advisory Board, hereinafter called the advisory board. The
597 advisory board shall consist of the following members: 4 representatives of the executive office
598 of health and human services appointed by the secretary, one of whom shall be a representative
599 of the department of children and families, one of whom shall be a representative of the
600 department of youth services, one of whom shall be a representative of the department of mental
601 health, one of whom shall be a representative of the office of Medicaid; the child advocate or her
602 designee; a representative of the department of elementary and secondary education, appointed
603 by the commissioner; a juvenile court judge appointed by the chief justice of the juvenile court; a
604 probation officer assigned to a juvenile court, appointed by the commissioner of probation; 5
605 members appointed by the Governor, one of whom shall be a district attorney, one of whom shall
606 be a designee of the committee for public counsel services, one of whom shall be an independent
607 education advocate, one of whom shall be a private provider of services to families with children
608 who have behavioral health needs, and one who is a parent and is not an employee of the
609 commonwealth; one member appointed by the Speaker of the House and one member appointed
610 by the President of the Senate.

611 The secretary of health and human services and the chief justice of the juvenile court
612 shall each designate one board member to serve as co-chairs. All appointments to the advisory
613 board shall be made not later than thirty days after the effective date of this section. Any vacancy
614 shall be filled by the appointing authority. The chairpersons of the board shall schedule the first
615 meeting of the advisory board, which shall be held not later than sixty days after the effective
616 date of this section.

617 (b) The advisory board shall (1) monitor the progress being made by the
618 executive office of health and human services in developing a community based services
619 network and family resource centers under section 16T of chapter 6A; (2) monitor the progress
620 being made by the probation department in developing a system to collect data regarding
621 requests for assistance made and how they are resolved as required by section 39R of chapter
622 119; (3) monitor the effectiveness of the juvenile court in providing assistance to children and
623 families who file or are the subjects of requests for assistance under sections 39K through 39Y of
624 chapter 119; (4) provide advice with respect to such implementation upon the request of the chief
625 justice of the juvenile court, the commissioner of probation, the secretary of health and human

626 services or the general court and make recommendations to the governor annually whether there
627 are sufficient resources and support to continue with the activities identified in section 16T of
628 chapter 6A and sections 39K through 39Y of chapter 119.

629 (c) The secretary of the executive office of health and human services, the
630 commissioner of department of elementary and secondary education, the commissioner of
631 probation, and the chief justice of the juvenile court shall provide to the advisory board periodic
632 data reports which include information about families and children seeking or referred for
633 assistance and services provided. Within 12 months of the effective date of this act the advisory
634 board shall submit recommendations to the governor for funding and implementation activities
635 based on the review of the data submitted.

636 (d) The Families and Children Requiring Assistance Advisory Board shall
637 annually, not later than January 30th of each year, report in writing to the governor, the child
638 advocate, the house and senate committees on ways and means, and the joint committees on
639 children and families and persons with disabilities and on the judiciary on the progress made on
640 the implementation of section 16T of chapter 6A and sections 39K through 39Y of chapter 119.
641 In each annual report the advisory board shall report its expectation of progress toward the goals
642 of section 16T of chapter 6A which will be achieved in the following year. The annual report
643 shall also contain a recommended budget for the continued implementation activities to be
644 undertaken in the following year. The board will make a final report on the implementation of
645 section 16T of chapter 6A and sections 39K through 39Y of chapter 119 together with any
646 recommendations for legislative and regulatory changes not later than January 30, 2016. The
647 report shall be public. The board shall terminate following submission of the final report.

648 SECTION 14. (a) Within 24 months of the effective date of this act, the
649 secretary of the executive office of health and human services shall, with the advice of the
650 advisory board established in SECTION 13 of this act, design a model for the delivery of
651 community based services for children requiring assistance which shall include family resource
652 centers and will augment, be compatible with and integrated with existing community-based
653 service systems for children, as required by SECTION 2 of this act. Said model shall include a
654 system to gather data including: demographic information, insurance status and benefit coverage
655 of clients served, income documentation as needed to apply a sliding fee scale for payment or
656 waiver of payment for services, and other information that may assist the program and the
657 secretary in providing services and evaluating the effectiveness of family resource centers and
658 community based services programs, as required by SECTION 2 of this act. The model shall
659 allow a child or family to seek assistance from a family resource center or community based
660 services program directly and without referral. The model shall include procedures for referral
661 to other services whenever the staff of the family resource center or program offering community
662 based services determines that a family seeking or referred for services for a child has significant
663 and complex medical needs which cannot be met by the agency or where the child's behavior
664 presents a significant risk of harm that cannot be safely managed in the community.

665 (b) The advisory board will review the model design and make
666 recommendations to the secretary for pilot programs including recommendations of whether
667 there is sufficient information, workforce, and funding available to prepare and implement a pilot
668 program.

669 (c) Subject to appropriation, within 36 months of the effective date of this act,
670 the secretary shall pilot family resource centers or a community based service system program in
671 one or more geographic regions of the commonwealth. The secretary, with the advice and
672 assistance of the advisory board shall analyze the effectiveness of these pilot sites in order to
673 make necessary changes to the program design in establishing network of family resource
674 centers and community based service programs throughout the commonwealth.

675 (d) Subject to appropriation, within 48 months of the effective date of this act,
676 the secretary shall establish a network of family resource centers and child and family service
677 programs throughout the Commonwealth to provide community-based services to families with
678 children requiring assistance, as required by section 16T of Chapter 16A.

679 (e) Within 30 days of the effective date of this act the commissioner of the department of
680 children and families shall designate one or more employees of the department to liaise with the
681 juvenile court and its clerks and judges and probation officers in order to coordinate access to the
682 resources of the department including but not limited to family resource centers and community
683 based services.

684 SECTION 15

685 The department of mental health, in collaboration with the department of youth services
686 and the department of public health shall conduct a comprehensive review of the mental health
687 and substance abuse service needs of adolescents in the care of or detained in the commonwealth
688 through the order of a juvenile court, including without limitation juveniles detained in the
689 department of youth services or in the custody of the department of children and families or
690 receiving services from the department of mental health, the court clinics, probation or otherwise
691 and including without limitation any such departments, offices, agencies or instrumentalities of
692 the commonwealth, and any private organizations or agencies operating under arrangement with
693 departments or agencies of the commonwealth. To complete said review the department of
694 mental health, the department of youth services, and the department of public health shall solicit
695 input from the office of probation, the department of children and families, the department of
696 elementary and secondary education, the juvenile court, the juvenile court clinics, the committee
697 for public counsel services, the department of mental retardation, the division of insurance, the
698 division of medical assistance, the Massachusetts Association of District Attorneys, at least one
699 individual representing the interests of parents and families, at least one advocate for juvenile
700 justice, at least one representative of the service provider community, and at least one

701 representative of the Massachusetts Association of Health Plans. Said review shall be for
702 purposes of identifying the following:

703 (i) existing and proposed models of alternatives to detention, within and outside the
704 commonwealth, of providing mental health and substance abuse services to juveniles in
705 detention, and as alternatives to detention; community resources and other dependencies which
706 affect the appropriateness and effectiveness of models of alternatives to detention; and data
707 demonstrating the relative efficacy, cost –effectiveness, and effect on public safety of alternative
708 models;

709 (ii) unmet mental health and substance abuse needs of juveniles within the juvenile
710 court systems of the commonwealth, including an explicit comparison of the best practices and
711 models identified in paragraph a of this section with services and models available in the
712 commonwealth;

713 (iii) recommendations for addressing unmet needs, including without limitation
714 through the court clinics of the juvenile courts, and through contracting by the department of
715 mental health for community based services through community providers, or through consortia
716 of community providers, local government agencies and others operating in congruence with
717 local courts involved in the juvenile justice system.

718 (b) within 60 days after the effective date of this act, the department shall post to its
719 external website, for 30 days public comment, a proposed work plan to gather information
720 necessary to prepare the report required by this section, in consultation with clinical,
721 philanthropic and advocacy organizations for children, and providers of mental health and
722 substance abuse services for minors. The proposed work plan shall be directed to submit a final
723 report to the legislature and the governor no later than 270 days after the effective date of this act.

724 (c) Within 90 days after the effective date of this act, the department shall post its final
725 work plan on its external website.

726 (d) Within 210 days after the effective date of this act, the department shall post on its
727 external website, for public comment, a draft report responsive to this section.

728 (e) Within 270 days after the effective date of this act, the department shall post on its
729 external website, a final report responsive to this section, including a summary of all public
730 comments received, and responses to such comments. The department shall also that day provide
731 a copy to the governor, the president of the senate, the speaker of the house of representatives,
732 the chairs of the joint committees of mental health and substance abuse, and children, families
733 and persons with disabilities and the legislative mental health caucus.