

SENATE No. 1963

Senate, Tuesday, July 12, 2011 – Recommended new draft from the Senate committee on Ways and Means for House, No. 3492, relative to families and children engaged in services

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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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 An Act regarding families and children engaged in services.

2 Be it enacted by the Senate and House of Representatives in General Court assembled,
3 and by the authority of the same, as follows:

4 SECTION 1. Chapter 6A of the General Laws is hereby amended by inserting after
5 section 16S the following section:-

6 Section 16T. (a) For the purpose of this section the following words shall have the
7 following meanings:-

8 “Child requiring assistance”, as defined in section 21 of chapter 119.

9 “Community-based services”, services, including coordination of services, designed to
10 assist families with children requiring assistance so that, if appropriate, such children may able
11 to: (i) continue residing with their families in their home communities; (ii) continue as students
12 in their community schools; and (iii) enjoy strengthened relationships with their families.

13 “Family with a child requiring assistance”, as defined in section 21 of chapter 119.

14 “Habitually truant”, as defined in section 21 of chapter 119.

15 “Secretary”, the secretary of health and human services.

16 (b) Subject to appropriation or third party reimbursement, the secretary shall:

17 (1) establish a network of child and family service programs
18 and family resource centers throughout the commonwealth to provide community-based services
19 to families with children requiring assistance in accordance with subsection (c);

20 (2) develop guidelines and standards necessary to achieve and
21 maintain, on a statewide basis, a comprehensive and integrated network of community-based
22 services and family resource centers for children and families;

23 (3) to promote efficiency and encourage access to existing
24 services, include in the network of community-based services and family resources:
25 organizations that are part of the comprehensive community-based behavioral health delivery
26 system coordinated by the secretary under section 16S; organizations that provide services or
27 have experience in coordinating access to community-based services such as local schools; other
28 local public agencies and private organizations; and local medical, behavioral or mental health
29 care providers;

30 (4) coordinate the services provided by the network and in the
31 family resource centers including, but not limited to, outreach, intake, screening, assessment and
32 referral to services;

33 (5) encourage cooperation among local providers as needed to
34 provide the full complement of services required under this section;

35 (6) monitor and provide technical assistance to family
36 resource centers and providers of community-based services;

37 (7) require the use of a standard intake screening and
38 assessment tool to evaluate all families and children seeking community-based services which
39 shall identify the family's strengths, resources and service needs including, but not limited to,
40 mental health, behavioral health or substance abuse treatment, basic family shelter, clothing and
41 food needs, child care needs, health insurance status, legal issues, education placement and child
42 protection; and

43 (8) create a data collection system for use by programs within
44 the community-based services network and family resource centers which shall maintain the
45 privacy of clients served, assist programs and the secretary in addressing the needs of the
46 population to be served, collect information including, but not limited to, insurance status and
47 benefit coverage of clients served, income documentation as needed to apply a sliding fee scale
48 for payment or waiver of payment for services and such other information deemed necessary to
49 assist the program and the secretary in providing services, identifying service needs and gaps and
50 evaluating the effectiveness of family resource centers and the community-based services
51 network.

52 (c) The network of community-based services programs and family resource centers
53 shall: assist families so that, whenever possible, children may continue residing with their
54 families in their home communities; assist families to enable children to continue as students in
55 their community schools; strengthen the relationships between children and their families; and
56 provide coordinated, comprehensive, community-based services for children at risk of dropping
57 out of school, committing delinquent acts or engaging in behaviors which impede the likelihood
58 of leading healthy, productive lives.

59 Services offered through the network shall include, but are not limited to, treatment for or
60 assistance with: eligibility determinations, behavioral, medical and mental health needs, special
61 education evaluation, remedial education services, assistance with insurance issues, mentoring,
62 family and parent support, civic engagement and community service, after school and out-of-
63 school opportunities, residential programs, crisis management and case management.

64 (d) Any documentation of services provided to the family and child through the
65 network of community-based services or in the family resource centers shall not be public
66 records under clause Twenty-sixth of section 7 of chapter 4. Except as otherwise required by
67 law, including laws related to the reporting of suspected abuse or neglect under section 51A of
68 chapter 119, statements made by the family and child while receiving services from the network
69 of community-based services shall be treated as confidential and may not be used in any
70 proceedings without the written consent of the person making the statement. Information about
71 the child and family requiring assistance, including interactions with service providers and
72 protected health information services, may be shared among providers of community services
73 providing such services to the child and family as well as with any agency within the executive
74 office of health and human services providing services to the child as needed to coordinate
75 treatment and provide appropriate case management in accordance with applicable state and
76 federal privacy laws. Information about the child and family, including interactions with service
77 providers and protected health information, may be shared among members of the case team as
78 needed to coordinate treatment and provide appropriate case management, to the extent
79 permitted under applicable state and federal law, unless the child or family decline in writing to
80 permit such information sharing in accordance with state and federal privacy laws.

81 (e) Participation in community-based services and use of the family resource
82 centers shall be pursuant to a voluntary agreement of the parent, legal guardian or custodian and
83 the child; provided, however, that provision of community-based services may be contingent
84 upon such parent, legal guardian or custodian agreeing to pay for such services or consenting to
85 allow covered services to be billed to applicable third party payers, including insurance
86 providers.

87 (f) Except as provided herein, a school administrator shall refer a student to a
88 family resource center or a community-based services program, if such programs have been
89 established in the geographic region where the student resides, at the same time that the

90 administrator notifies such student and the parent, legal guardian or custodian thereof that such
91 student is to be expelled for failure to comply with the lawful and reasonable rules of the school.
92 After providing the process that is due to such student, including an expulsion hearing if
93 requested under section 37H of chapter 71, the school administrator shall consider the outcome
94 of the community-based services if the student provides such outcome information to the school.
95 After an expulsion is imposed, the student may continue to provide information relative to the
96 outcome of any community-based services rendered, and the school administrator shall consider
97 the outcome of any community-based services rendered any time such information is provided.
98 Notwithstanding the outcome of any community-based services, school districts shall make
99 available to expelled students educational services designed to lead to re-entry to a regular
100 education program or to a high school diploma.

101 A school shall refer a child and family to a department of education certified truancy
102 program, if such a program is available at the school, before referring the child and family to
103 community-based services or a family resource center for habitually truant behavior. Whenever a
104 child or family seeks assistance from a family resource center or community-based service
105 network program for habitually truant behavior, the program staff shall assist the family in
106 gaining access to a certified truancy program.

107 (g) Nothing in this section shall diminish or interfere with the rights and protections
108 afforded to students with disabilities under federal and state special education laws.

109 SECTION 2. Chapter 69 of the General Laws is hereby amended by inserting
110 after section 1N the following section:-

111 Section 10. The department shall adopt regulations establishing a truancy
112 prevention program certification process, consistent with the behavioral health framework
113 developed pursuant to section 19 of chapter 321 of the acts of 2008 and shall require that the
114 truancy prevention program evaluate the level of out-of-school support for students and families
115 and address conditions that make students more likely to become truant including, but not
116 limited to, previously unidentified or inadequately addressed special needs, bullying and
117 harassment. School districts shall establish a truancy prevention program which meets the
118 requirements for certification adopted by the department.

119 SECTION 3. Section 21 of chapter 119 of the General Laws, as appearing in
120 the 2008 Official Edition, is hereby amended by striking out the definition of “child in need of
121 services” and inserting in place thereof the following definition:-

122 “Child requiring assistance”, a child between the ages of 6 and 18 who: (i) repeatedly
123 runs away from the home of such child’s parent, legal guardian or custodian; (ii) repeatedly fails
124 to obey the lawful and reasonable commands of such child’s parent, legal guardian or custodian,
125 thereby interfering with the parent’s, legal guardian’s or custodian’s ability to adequately care for

126 and protect such child; (iii) repeatedly fails to obey the lawful and reasonable regulations of
127 such child's school; or (iv) who is habitually truant;

128 SECTION 4. Said section 21 of said chapter 119, as so appearing, is hereby
129 further amended by inserting, after the definition of "Department", the following 2 definitions:-

130 "Family requiring assistance", a parent, guardian, custodian, sibling and any relative or
131 caretaker responsible for a child requiring assistance.

132 "Habitually truant", a school-aged child, not excused from attendance in accordance with
133 the lawful and reasonable regulations of such child's school, who willfully fails to attend school
134 for more than 8 school days in a quarter.

135 SECTION 5. Said chapter 119 is hereby further amended by striking out
136 sections 39E to 39J, inclusive, as so appearing, and inserting in place thereof the following 15
137 sections:-

138 Section 39K. The juvenile court department shall have jurisdiction over any
139 proceeding commenced under section 39M alleging that a child and his family requires
140 assistance. The jurisdiction of the Boston juvenile court for the subject matter of this section
141 shall extend to the territorial limits of Suffolk County.

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

146 (b) Notwithstanding any general or special law to the contrary, no record pertaining to the
147 child involved in the proceedings shall be maintained or remain active after the request for
148 assistance is dismissed. The identity and record of any child for which a request for assistance is
149 filed shall not be submitted to the department of criminal justice information services, criminal
150 offender record information system, court activity record index or any other criminal record
151 information system.

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

154 Section 39M. (a) A proceeding to determine whether or not a child and his
155 family requires assistance is initiated by the filing of a request for assistance.

156 (1) The request for assistance shall state on the petitioner's
157 information and belief:

158 (i) that the child repeatedly runs away from the home of
159 such child's parent, legal guardian or custodian or repeatedly fails to obey the lawful and

160 reasonable commands of the child's parent, legal guardian or custodian thereby resulting in the
161 parent's, legal guardian's or custodian's inability to adequately care for and protect the child, or
162 that the child repeatedly fails to obey the lawful and reasonable regulations of the child's school
163 or is habitually truant;

164 (ii) that the child was under the age of 19 at the time the
165 acts which provide the impetus to make a request for assistance took place; and

166 (iii) that the child and such child's family require
167 assistance.

168 (2) The request for assistance shall state the specific acts upon which
169 the request for assistance is based and the time and place such acts are believed to have occurred.

170 (3) If the petitioner is a school district, the request for assistance shall
171 additionally include the following:

172 (i) if the request for assistance states that a child is
173 habitually truant, a statement of the actions taken by the school district to comply with its
174 obligations under its truancy prevention program certified pursuant to section 10 of chapter 69
175 and to improve the school attendance of the child. The request for assistance shall also state
176 whether or not the child and his family have participated in the truancy prevention program, if
177 one is available, and a statement of the specific steps taken under the truancy prevention program
178 to prevent the child's truancy; and

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

182 (4) If the petitioner is a parent, legal guardian or custodian, the
183 request for assistance shall additionally include documentation that the family was informed that
184 there may be community-based services programs, family resource centers or other entities
185 which may assist the child including, but not limited to, any entities established under section
186 16T of chapter 6A, and that: (i) the family was referred to such services; (ii) the family declined
187 such services; or (iii) such services were unavailable.

188 (b) The following persons may initiate a request for assistance proceeding:

189 (1) a police officer, if the basis for the request for assistance arose in
190 the course of the officer's official duties;

191 (2) a parent, legal guardian or custodian; or

192 (3) a school district, if the request for assistance states that the child
193 repeatedly fails to obey the lawful and reasonable regulations of such child's school or is
194 habitually truant;

195 (c) (1) When a request for assistance is presented to the clerk for filing,
196 the clerk shall, with the assistance of the secretary of health and human services or a designee
197 thereof, determine whether or not the child and family named in the petition have received
198 services from a community-based services program or a family resource center established under
199 section 16T of chapter 6A or other entity available to provide services to the child or family. If
200 the child and family have participated in such services, the clerk shall attach to the request a
201 statement of the petitioner that identifies the family resource center or community-based services
202 program that provided assistance. If the child and family have not participated in such services,
203 the clerk shall inform the petitioner that the petitioner may delay filing the request for assistance
204 and choose to first refer the child and his family to a family resource center, community-based
205 services program or other entity designated by the secretary of health and human services to
206 provide community-based services in the juvenile court district where the child resides and
207 return to court at a later time to file a request for assistance, if needed.

208 (2) (i) If the petitioner is a parent, legal guardian or custodian,
209 the clerk shall provide such petitioner the contact information, if available, for a family resource
210 center, community-based services program or other entity designated by the secretary of health
211 and human services. If such services are available, the clerk shall contact the family resource
212 center, community-based services program or other entity designated by the secretary of health
213 and human services on the parent's, legal guardian's or custodian's behalf in order to complete a
214 referral to such services, unless the parent, legal guardian or custodian declines to accept such a
215 referral or indicates a preference to contact the family resource center, community-based services
216 program or other entity directly. If the parent, legal guardian or custodian declines to be referred
217 to such center, program or other entity, the clerk shall provide to the parent, legal guardian or
218 custodian informational materials, prepared by the court. Such materials shall include the types
219 of orders that the court may issue and the possibility of changes in the custody of the child and
220 may include an explanation of the services available through the court process and the manner in
221 which those services are delivered. Upon receipt of: (A) the parent's, legal guardian's or
222 custodian's signed statement declining a referral to such services or documentation from the
223 executive office of health and human services that such services are not available in the juvenile
224 court district where the child resides; and (B) a statement that the parent, legal guardian or
225 custodian understands the types of services available through the court process, the manner in
226 which those services may be delivered, the types of orders that the court may issue and the
227 possibility of changes in the custody of the child, the clerk may accept the request for assistance
228 and shall attach such signed statement to the petition.

229 (ii) If the petitioner is a police officer, the clerk shall
230 contact a family resource center, community-based services program, or other entity designated

231 by the secretary of health and human services in order to complete a referral to such services
232 before accepting the request for assistance for filing, unless the officer provides a written
233 statement that the officer believes that referral to a family resource center, community-based
234 services program or other entity prior to filing the request for assistance would present a risk of
235 harm to the child and detailing the reasons for this belief. Upon receipt of such written
236 statement, the clerk shall: (A) immediately contact the designated family resource center,
237 community-based services program or other entity designated by the secretary of the executive
238 office of health and human services to provide notice that a request for assistance has been
239 prepared for filing; (B) create a docket for the matter; and (C) request that the chief probation
240 officer, or his designee, conduct an immediate inquiry and report to the clerk, or a judge if the
241 clerk is not available, with advice on how to proceed to obtain assistance for the child. After
242 considering such advice, the clerk may accept the request for assistance for filing.

243 If a family resource center, community-based services program or other entity designated
244 by the secretary of health and human services is not available in the juvenile court district where
245 the child resides, the clerk shall: (A) create a docket for the matter; and (B) request that the chief
246 probation officer, or his designee, conduct an immediate inquiry and report to the clerk, or a
247 judge if the clerk is not available, with advice on how to proceed to obtain assistance for the
248 child. After considering such advice the clerk may accept the request for assistance for filing.

249 Section 39N. (a) Except as provided in subsection (b), upon the filing of a
250 request for assistance pursuant to this section, the court shall cause a copy of the request for
251 assistance and a summons to be issued, requiring the child and each parent with legal custody,
252 legal guardian or custodian, to appear at the court at a time and place named to address the
253 request for assistance. If the safety or well-being of the child or a parent without primary custody
254 is in danger, only the primary custodial parent shall be required to appear.

255 (b) In proceedings commenced by a parent, legal guardian or custodian, the court shall, at
256 the time the request is filed, notify such parent, legal guardian or custodian, in writing, of the
257 time and place that the request for assistance shall be heard to ensure such parent, legal guardian
258 or custodian has a copy of the request for assistance. If a parent with legal custody lives
259 separately from the parent, legal guardian or custodian who commenced the proceedings, the
260 court shall cause a copy of the request for assistance and a summons to be issued, requiring the
261 child and the parent with legal custody who did not initiate the request for assistance to appear to
262 address the request for assistance at the court at a time and place named, except in cases in which
263 the safety or well-being of the child or other parent with legal custody is in danger, only the
264 primary custodial parent shall be required to appear.

265 (c) A copy of the request for assistance served or provided under subsection (a) or (b)
266 shall be accompanied by a notice that, in the event that the court deems it necessary to place the
267 child in the care and custody of the department of children and families, such parent, legal

268 guardian or custodian may be named as a respondent in any child support proceeding brought in
269 connection with such child's care.

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

275 Section 39O. Whenever a request for assistance is filed, the clerk, or a judge if
276 the clerk is not available, shall hold a hearing as soon as possible, but not later than 15 days after
277 the creation of a docket. At that hearing, the clerk, or a judge if the clerk is not available, shall
278 receive the evidence from the petitioner and the child and, if a probation officer has been
279 involved in the matter, the recommendation of such probation officer. The clerk or the judge
280 shall determine: (i) whether or not there is probable cause to believe that such child and family
281 are in need of assistance; and (ii) whether it is in the best interest of the child for the matter to
282 proceed to a fact finding hearing. The clerk or judge shall then either dismiss the request for
283 assistance or create a docket for the matter, unless a docket has already been created under
284 subsection (b) of section 39M, and refer the child and family to a probation officer for the
285 preliminary inquiry required under section 39R. When a request for assistance is dismissed
286 under this section, the court shall enter an order directing expungement of any records of the
287 request and related proceedings maintained by the clerk, the court, the department of criminal
288 justice information services, the court activity record index and the probation department that
289 directly pertain to the request for assistance.

290 Section 39P. At the conclusion of the probable cause hearing required by
291 section 39O, the clerk shall set a date for a fact finding hearing not more than 90 days from the
292 date the request for assistance was filed. The court may postpone the fact finding hearing upon
293 the request of the parent, legal guardian, custodian, child, petitioner or probation officer for an
294 additional 90 days after the expiration of the initial 90 day period.

295 Section 39Q. (a) When a request for assistance is filed, the child who is named
296 in such request shall be informed that he has a right to counsel at all hearings and, if the child is
297 not able to retain counsel, the court shall appoint counsel for the child. The clerk shall cause a
298 copy of the request for assistance and notice of the time and place of the fact finding hearing to
299 be delivered to counsel at the time of appointment.

300 (b) When the request for assistance is filed, each parent, legal guardian or custodian of
301 the child shall be informed of his right to participate as a party in any proceeding under sections
302 39K to 39Y, inclusive, involving the child thereof and that a parent or legal guardian has the
303 right to counsel at any hearing or proceeding regarding custody of such child. If said parent or

304 legal guardian is financially unable to retain counsel, the court shall appoint counsel for said
305 parent or legal guardian.

306 (c) The court shall determine whether the parent or legal guardian of a child alleged to
307 require assistance is indigent. If the court determines that the parent or legal guardian is not
308 indigent, the court shall assess up to a \$1000 fee against the parent or legal guardian to pay for
309 the cost of counsel appointed for the child. If the parent or legal guardian is determined to be
310 indigent, but is still able to contribute toward the payment of some of said costs, the court shall
311 order the parent or legal guardian to pay a reasonable amount toward the cost of counsel
312 appointed for the child or for the parent or legal guardian.

313 Section 39R. (a) When requested by the court or a clerk, or when a child has
314 been referred under section 39O, the chief probation officer or his designee shall conduct a
315 preliminary inquiry to determine whether in his opinion the best interests of the child and family
316 require that crisis intervention services be provided to the child and family.

317 The probation officer in his discretion may:

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

320 (2) confer with a family resource center or any provider of
321 community-based services;

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

325 (4) conduct conferences with the child, the child's family and the
326 petitioner for the purpose of finding ways to resolve the situation which formed the basis of the
327 request for assistance. Information obtained by the probation officer may be used in the present
328 proceeding but shall otherwise be confidential and shall not be used in school disciplinary
329 proceedings or other court proceedings.

330 (b) If the child or his parent, legal guardian or custodian fail to participate in
331 good faith with the referrals or conferences arranged by the probation officer or if the probation
332 officer is not able to refer the child or his parent, legal guardian or custodian to an appropriate
333 public or private organization which is willing and able to provide appropriate services, the
334 probation officer shall so certify in writing and present these findings to the clerk or judge. Upon
335 receipt of such certification, the judge may order a hearing in accordance with section 39U.

336 (c) (1) The commissioner of probation shall establish a system to collect data on
337 all requests for assistance made and how they are resolved under sections 39K to 39Y, inclusive.
338 Said system shall maintain the privacy of clients served, assist the court in addressing the needs

339 of the population to be served and collect information related to: the racial and ethnic identity of
340 the child; the insurance status and coverage of clients served; the length of time a child is
341 receiving assistance from a probation officer, including the time prior to and subsequent to the
342 filing of a request for assistance; the identity of any public or private organization to whom a
343 probation officer has referred a child or family for services; and any other information that may
344 assist the commissioner and the court in evaluating the availability and effectiveness of services
345 for children who are the subjects of requests for assistance pursuant to this section.

346 (2) The probation officer shall gather information concerning each
347 child and family referred to the officer including, but not limited to, insurance status and
348 coverage and other information that may assist the commissioner of probation and the court in
349 evaluating the availability and effectiveness of services for children who are the subjects of
350 requests for assistance pursuant to this section.

351 Section 39S. If, after an evidentiary hearing, the court finds by a preponderance of the
352 evidence, that a child stated to require assistance by reason of repeatedly running away from the
353 home of his parent, legal guardian or custodian or repeatedly failing to obey the lawful and
354 reasonable commands of his parent, legal guardian or custodian is likely not to appear at the fact
355 finding hearing or at the disposition hearing, the court may order the child to be released upon
356 such terms and conditions as it determines to be reasonable or, if the standards below are met,
357 may place the child in the temporary custody of the department of children and families. The
358 court may not order the child to be placed in the custody of the department of youth services.
359 Prior to the court granting temporary custody to the department of children and families, the
360 court must make a written certification and determination that it is contrary to the best interests
361 of the child be in the child's home or current placement, and that the department of children and
362 families has made reasonable efforts to prevent removal of the child from the child's home or the
363 existing circumstances indicate that there is an immediate risk of harm or neglect which
364 precludes the provision of preventative services as an alternative to removal.

365 An order placing a child with the department under this section shall be valid
366 for not more than 15 days, upon which the child and his parents, legal guardians or custodians,
367 represented by counsel, must be brought again before the court for a hearing on whether the
368 order should be continued for another 15 day period based on a preponderance of the evidence.
369 If the court decides to extend the order, it shall note, in writing, the detailed reasons for its
370 decision. Orders under this section may be in effect for not more than 45 days total.

371 A child who is the subject of a request for assistance may not be confined in
372 shackles or similar restraints or in a court lockup facility in connection with any proceedings
373 under sections 39K to 39Y, inclusive. A child who is the subject of a request for assistance shall
374 not be placed in a locked facility or any facility designated or operated for juveniles who are
375 alleged to be delinquent or who have been adjudicated delinquent. Such child may, however, be

376 placed in a facility which operates as a group home to provide therapeutic care for juveniles,
377 regardless of whether juveniles adjudicated delinquent are also provided care in such facility.

378 Section 39T. The petitioner may withdraw the request for assistance at any
379 time prior to a hearing to determine the disposition of a request for assistance. A probation
380 officer may at any time recommend to the court that the request for assistance be dismissed upon
381 a showing that dismissal is in the best interests of the child.

382 Section 39U. (a) Subsequent to a determination of probable cause that a child
383 and family require assistance under section 39O, and in accordance with section 39P, the court
384 shall hold a fact finding hearing in which it shall receive evidence from the petitioner, the parent,
385 legal guardian or custodian, the child, a representative from any family resource center or
386 community-based services program involved with the family and any probation officer involved
387 with the family. At any hearing held to determine whether a child and family require assistance,
388 the child and his attorney shall be present and the parent, legal guardian or custodian shall be
389 given an opportunity to be heard. The petitioner who files the request for assistance shall bear the
390 burden of presenting evidence, proving by clear and convincing evidence, that the child and
391 family require assistance.

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

393 (1) dismiss the request for assistance because the circumstances
394 which led to the filing of a request for assistance have been resolved or the court finds that the
395 assistance being offered poses no likelihood of benefit to the child and family;

396 (2) adjourn the hearing for up to 60 days because it finds that the
397 interests of the child would best be served by continued informal assistance, in which case the
398 court shall, with the consent of the child and his parent, legal guardian or custodian, refer the
399 child to a probation officer or refer the child and family to a designated family resource center or
400 community-based services program, if one is available in the juvenile court district where the
401 child resides, for additional assistance; or

402 (3) if the court finds the statements included in the request for
403 assistance have been proved at the fact finding hearing by clear and convincing evidence, it may
404 find that the child and family named in such request for assistance to be a child and family
405 requiring assistance and schedule a hearing for disposition.

406 (c) No statements made by a child, family member or by any other person during referrals
407 to community-based services, family resource centers or other entities designated by the
408 secretary of health and human services may be admitted at any hearing, provided that the child or
409 a family member who made the statement may consent in writing to admitting such a statement.

410 Section 39V. (a) Upon making a finding that a child requires assistance after a
411 fact finding hearing, the court shall convene and may participate in a conference of the probation
412 officer who conducted the preliminary inquiry, a representative from a family resource center or
413 other community-based services program, if involved with the family, the petitioner, a
414 representative from the child's school, the child's parent, legal guardian or custodian and his
415 attorney, the child and his attorney, a representative of the department of children and families, if
416 involved with the family, and any other person who may be helpful in determining the most
417 effective assistance available to be offered to the child and family. The probation officer shall
418 present written recommendations and other persons at the conference may present written
419 recommendations to the court to advise the court on appropriate treatment and services for the
420 child and family, appropriate placement for the child, and appropriate conditions and limitations
421 of such placement.

422 At the conference and subsequent hearing on disposition, the child and his attorney shall
423 be present and the parents, legal guardian or custodian and the petitioner shall be given an
424 opportunity to be heard. The court may receive evidence as to the best disposition from all
425 persons who participate in the conference and any other person who may be helpful in
426 determining an appropriate disposition.

427 (b) During the dispositional hearing, the court shall consider evidence admitted, the
428 report of the probation officer, and the physical and emotional welfare of the child and may
429 make any of the following orders:

430 (1) permit the child to remain with his parents, legal guardian or
431 custodian, subject to any conditions and limitations the court may prescribe including, but not
432 limited to: provision for medical, psychological, psychiatric, educational, occupational and social
433 services; provision for supervision by a court clinic or counseling or guidance by any public or
434 private organization; and provision for any other services deemed appropriate by the court;

435 (2) place the child in the care of any of the following individuals,
436 subject to such conditions and limitations as the court may prescribe including, but not limited
437 to, services described in clause (1):

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

441 (ii) a private charitable or childcare agency or other private
442 organization, licensed or otherwise authorized by law to receive and provide care for such child;

443 (3) place the child in the custody of the department of children and
444 families, subject to sections 32 and 33 and such conditions and limitations as the court may
445 recommend. If the court chooses to place the child in the custody of the department, the court

446 shall make the written certification and determinations required by section 29C. If the court has
447 placed a child in the custody of the department, then the department:

448 (i) shall not refuse out-of-home placement of a child if
449 the placement is recommended by the court if the the court has made the written certification and
450 determinations required by said section 29C;

451 (ii) shall not refuse out-of- home placement when
452 requested by the child if there is a substantiated history of abuse or neglect in the home by the
453 parent , legal guardian, custodian or any other person living in the home;

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

456 (iv) subject to clauses (i) and (ii), shall give due
457 consideration to the recommendations of the court. Whenever the department decides not to
458 carry out the recommendations of the court regarding placement and treatment of the child it
459 shall present the reasons for its decision and the alternative plan for treatment and placement in
460 writing to the court.

461 (4) The court may recommend that a state agency provide particular
462 services to the family and child including, but not limited to, those services described in clause
463 (1) of subsection (b). If the agency determines that alternative services should be provided to the
464 child and the family, or is otherwise not able to comply with the court's recommendations, the
465 agency shall provide to the court and the office of the child advocate a written statement of the
466 reasons why it is unable to provide those services. The executive office of health and human
467 services shall, not later than December 31, submit an annual report to the house and senate
468 committees on ways and means and the joint committee on children, families and persons with
469 disabilities stating the number of cases for which agencies within the executive office provided
470 alternative services, rather than those recommended by the court, summarizing the reasons for
471 not providing the services recommended by the court, and including a brief description of the
472 services that were provided under this section. Nothing in this section shall be construed to
473 entitle a child to services for which the child would be otherwise ineligible

474 (5) If the family or child are directed by the court to participate in
475 treatment or services which are eligible for coverage by an insurance plan or other third-party
476 payer, payment for such services shall not be denied if the treatment or services otherwise meet
477 the criteria for coverage.

478 Section 39W. (a) Notwithstanding subclause (ii) of clause (2) of subsection (b)
479 of section 39V, the court may not order the child to be placed in the custody of the department of
480 youth services.

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

486 Section 39X. (a) Any order of disposition under section 39V shall continue in
487 force for not more than 120 days. The court which entered the order may, after a hearing, extend
488 such order for a period not to exceed 90 days, not more than 3 times, if such court finds that the
489 purposes of the order have not been accomplished and that each such extension would be
490 reasonably likely to further those purposes. The child and parents, legal guardian or custodian
491 shall have the opportunity to present evidence and rebut evidence presented at any extension
492 hearing.

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

495 Section 39Y. (a) (1) A child may be taken into custodial protection for
496 engaging in the behaviors described in section 39M, only if such child has failed to obey a
497 summons issued pursuant to section 39N or if the police officer initiating such custodial
498 protection has probable cause to believe that such child has run away from the home of his
499 parents, legal guardian or custodian and will not respond to a summons.

500 (2) After a law enforcement officer has taken a child into custodial
501 protection, the officer shall immediately notify the parent or other person legally responsible for
502 the child's care, or the person with whom the child is domiciled, that such child is under the
503 custodial protection of the officer.

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

506 (i) release the child to the custody of the child's parent or
507 other person legally responsible for the child's care upon the written promise, without surety, of
508 the person to whose custody the child is released that he will bring the child to the court on the
509 next court date;

510 (ii) forthwith and with all reasonable speed take the child
511 directly, and without first being taken to the police station house, to a program designated by the
512 secretary of health and human services to provide community-based services or family resource
513 services, if one is available in the geographic region which constitutes the district of the juvenile
514 court department within which the child was taken into custodial protection or in which the child
515 resides; or

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

519 (iv) take the child directly to the juvenile court in which the
520 act providing the impetus to take the child into custodial protection occurred if the officer affirms
521 on the record that he attempted to exercise the options identified in paragraphs (i), (ii) and (iii) of
522 this subsection, was unable to exercise these options, and the reasons therefore.

523 (4) In the absence of special circumstances, the officer shall release
524 the child to the child's parents or other person legally responsible for the child's care, in
525 accordance with clause (i) of paragraph (3).

526 (5) A child shall not be securely detained in a police station or town
527 lockup. At no time shall a child be placed in a locked facility or any facility designated or
528 operated for juveniles who are alleged to be delinquent or who have been adjudicated delinquent;
529 provided, however, that such child may be placed in a facility which operates as a group home to
530 provide therapeutic care for juveniles regardless of whether juveniles adjudicated delinquent are
531 also provided care in such facility.

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

535 SECTION 6. (a) There shall be established within the executive office of health
536 and human services, but not subject to the control of said executive office, a Families and
537 Children Requiring Assistance Advisory Board, hereinafter called the advisory board. The
538 advisory board shall consist of the following members: 4 representatives of the executive office
539 of health and human services appointed by the secretary, 1 of whom shall be a representative of
540 the department of children and families, 1 of whom shall be a representative of the department of
541 youth services, 1 of whom shall be a representative of the department of mental health, 1 of
542 whom shall be a representative of the office of Medicaid; the child advocate or a designee
543 thereof; a representative of the department of elementary and secondary education appointed by
544 the commissioner; a juvenile court judge appointed by the chief justice of the juvenile court; a
545 probation officer, assigned to a juvenile court, appointed by the commissioner of probation; 5
546 members appointed by the governor, 1 of whom shall be a district attorney, 1 of whom shall be a
547 designee of the committee for public counsel services, 1 of whom shall be an independent
548 education advocate, 1 of whom shall be a private provider of services to families with children
549 who have behavioral health needs, 1 who is a parent and is not an employee of the
550 commonwealth; 1 member appointed by the speaker of the house and 1 member appointed by the
551 senate president.

552 The secretary of health and human services and the chief justice of the juvenile court
553 shall each designate 1 board member to serve as co-chairs. All appointments to the advisory
554 board shall be made not later than 30 days after the effective date of this section. Any vacancy
555 shall be filled by the appointing authority. The chairpersons of the board shall schedule the first
556 meeting of the advisory board, which shall be held not later than 60 days after the effective date
557 of this section.

558 (b) The advisory board shall: (1) monitor the progress being made by the
559 executive office of health and human services in developing a community-based services
560 network and family resource centers under section 16T of chapter 6A of the General Laws; (2)
561 monitor the progress being made by the probation department in developing a system to collect
562 data regarding requests for assistance made and how such requests for assistance are resolved as
563 required by section 39R of chapter 119 of the General Laws; (3) monitor the effectiveness of the
564 juvenile court in providing assistance to children and families who file, or are the subjects of,
565 requests for assistance under sections 39K to 39Y, inclusive, of said chapter 119; (4) provide
566 advice with respect to such implementation upon the request of the chief justice of the juvenile
567 court, the commissioner of probation, the secretary of health and human services or the general
568 court and make recommendations to the governor annually relative to the adequacy of resources
569 and support to continue with the activities identified in said section 16T of said chapter 6A and
570 said sections 39K to 39Y, inclusive, of chapter 119.

571 (c) The secretary of health and human services, the commissioner of the
572 department of elementary and secondary education, the commissioner of probation and the chief
573 justice of the juvenile court shall provide to the advisory board periodic data reports which
574 include information relative to families and children seeking, or referred for, assistance and the
575 services provided to them. Within 12 months of the effective date of this act, the advisory board
576 shall submit recommendations to the governor for funding and implementation activities based
577 on the review of such data submitted.

578 (d) The Families and Children Requiring Assistance Advisory Board shall, not
579 later than January 30th of each year, report in writing to the governor, the child advocate, the
580 house and senate committees on ways and means, the joint committee on children and families
581 and persons with disabilities and on the joint committee on the judiciary on the progress made
582 relative to the implementation of said section 16T of said chapter 6A and said sections 39K to
583 39Y, inclusive, of said chapter 119. In each annual report, the advisory board shall report its
584 expectation of progress toward the goals of said section 16T of said chapter 6A which will be
585 achieved in the following year. The annual report shall also contain a recommended budget for
586 the continued implementation activities to be undertaken in the following year. The board shall
587 make a final report on the implementation of said section 16T of said chapter 6A and said
588 sections 39K to 39Y, inclusive, of said chapter 119, together with any recommendations for
589 legislative and regulatory changes, not later than January 30, 2016. The report shall be public.
590 The board shall terminate following submission of the final report.

591 SECTION 7. (a) Within 24 months of the effective date of this act, the
592 secretary of health and human services shall, with the advice of the advisory board established in
593 section 6, design a model for the delivery of community-based services for children requiring
594 assistance which shall include family resource centers and shall augment, be compatible with and
595 integrated into existing community-based service systems for children, as required by section 1.
596 Such model shall include a system to gather data including: demographic information, insurance
597 status and benefit coverage of clients served, income documentation as needed to apply a sliding
598 fee scale for payment or waiver of payment for services, and such other information deemed
599 necessary to assist the program and the secretary in providing services and evaluating the
600 effectiveness of family resource centers and community-based services programs, as required by
601 section 1. The model shall allow a child or family to seek assistance from a family resource
602 center or community-based services program directly and without referral. The model shall
603 include procedures for referral to other services whenever the staff of the family resource center
604 or program offering community-based services determines that a family seeking or referred for
605 services for a child has significant and complex medical needs which cannot be met by the
606 agency or if the child's behavior presents a significant risk of harm that cannot be safely
607 managed in such center or program.

608 (b) The advisory board shall review the model design and make
609 recommendations to the secretary for pilot programs including recommendations as to whether
610 sufficient information, workforce and funding is available to prepare and implement a pilot
611 program.

612 (c) Subject to appropriation, within 36 months of the effective date of this act,
613 the secretary shall establish a pilot family resource center or a community-based service system
614 program in 1 or more geographic regions of the commonwealth. The secretary, with the advice
615 and assistance of the advisory board, shall analyze the effectiveness of these pilot sites in order
616 to make necessary changes to the program design in establishing a network of family resource
617 centers and community-based service programs throughout the commonwealth.

618 (d) Subject to appropriation, within 48 months of the effective date of this act,
619 the secretary shall establish a network of family resource centers and child and family service
620 programs throughout the commonwealth to provide community-based services to families with
621 children requiring assistance, as required by section 16T of chapter 6A of the General Laws.

622 (e) Within 90 days of the effective date of this act the secretary shall provide a
623 mechanism for the clerk of the juvenile court to obtain information and make referrals to family
624 resource centers or community-based services programs or other entities.

625 SECTION 8. Within 12 months of the effective date of this act, and annually
626 thereafter, the commissioner of probation shall submit a report to the child advocate, the Families
627 and Children Engaged in Services advisory board, the house and senate committees on ways and

628 means, joint committee on children, families and persons with disabilities and the joint
629 committee on the judiciary. The report shall include, for each juvenile court district: the number
630 of children and families receiving assistance from probation officers; the racial and ethnic
631 identity of the children and families, as identified by the child and family members; an analysis
632 of the services provided and an identification of gaps in services available; the status or
633 resolution of each request for assistance filed under section 39M of chapter 119 of the General
634 Laws; the number of children who are the subject of a request for assistance and also charged
635 with a delinquency matter in the previous year; and the custody status of the child that is subject
636 to the request for assistance, specifying if the child is in the custody of the department of
637 children and families or committed to the care of the department of youth services. The report
638 shall exclude information that identifies or allows others to identify any child or family involved
639 in the juvenile justice system.

640 SECTION 9. Subject to appropriation, the department of elementary and
641 secondary education shall develop a pilot truancy prevention program using a restorative justice
642 format in at least 1 urban high school in the commonwealth. The program shall include the use
643 of healing circles which allow family, neighborhood and school community members to be
644 present; a reparative board, comprised of peers and led by an adult; family group counseling, and
645 mediation or alternative dispute resolution with the child, family members and school
646 representatives. The program shall be designed to address the underlying causes both in and out
647 of school which led to truancy. The program shall be consistent with, and organized according
648 to, the schools and behavioral health framework developed under section 19 of chapter 321 of
649 the acts of 2008. The department shall evaluate the effectiveness of the program in preventing
650 truancy and enhancing the child's academic performance and report the results of that evaluation
651 to the board of elementary and secondary education, the house and senate committees on ways
652 and means, joint committee on education, the department of elementary and secondary education
653 and the child advocate.

654 SECTION 10. Subject to appropriation, the secretary of health and human
655 services shall create a pilot program to address the unique needs of girls who run away from their
656 parents and legal guardians.

657 SECTION 11. Nothing in this act shall diminish or interfere with the
658 responsibility of the commonwealth or municipalities to provide educational services as required
659 by state and federal law.

660 SECTION 12. Sections 1 and 3 to 6, inclusive, shall take effect 6 months after
661 the effective date of this act.