

**HOUSE . . . . . No. 4905**

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**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES, June 30, 2008.

The committee of Conference on the disagreeing votes of the two branches with reference to the Senate amendments (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2520) of the House Bill relative to child abuse and neglect (House, No.4333, amended), reports the accompanying bill (House, No. 4905).

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

### AN ACT PROTECTING CHILDREN IN THE CARE OF THE COMMONWEALTH.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith children in the care of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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

SECTION 1. Chapter 3 of the General Laws is hereby amended by adding the following section:-Section 69. (a) There shall be a permanent commission on the status of grandparents raising grandchildren which shall consist of 11 persons as follows: 3 persons appointed by the secretary of elder affairs, 1 of whom shall be from the secretary's office; 1 person appointed by the commissioner of children and families, who shall be from the department; 2 persons appointed by the governor; 1 person appointed by the speaker of the house of representatives; 1 person appointed by the house minority leader; 1 person appointed by the president of the senate; 1 person appointed by the senate minority leader; and 1 person appointed by the attorney general. Members of the commission shall be citizens of the commonwealth who have demonstrated a commitment to the rearing of grandchildren by grandparents.

(b) Members shall serve terms of 2 years. Vacancies in the membership of the commission shall be filled by the original appointing authority for the balance of the unexpired term.

(c) The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it deems necessary.

(d) The members of the commission shall receive no compensation for their services, but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties.

(e) The commission shall be a resource to the commonwealth on issues affecting grandparents raising grandchildren in the commonwealth. In furtherance of that responsibility, the commission shall: (1) foster unity among grandparents raising grandchildren

communities and organizations in the commonwealth by promoting cooperation and sharing of information and encouraging collaboration and joint activities; (2) serve as a liaison between government and private interest groups with regard to matters of unique interest and concern to grandparents raising grandchildren in the commonwealth; (3) assess programs and practices in all state agencies as they affect grandparents raising grandchildren, as the commission deems necessary and appropriate; (4) advise executive and legislative bodies of the potential effect of proposed legislation on grandparents raising grandchildren, as the commission deems necessary and appropriate; (5) investigate the merits of the establishment of a state agency dedicated to grandparents issues and determine how such agency would be set up; and (6) identify issues that are faced by relatives, other than parents, who are raising children.

(f) The powers of the commission shall include, but not be limited to, the following: (1) to use such voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered and required, including provision of meeting places and refreshments; (2) to hold regular, public meetings and to hold fact-finding hearings and other public events as the commission deems necessary; (3) to direct a staff, in this section to be called commission staff, to perform its duties; (4) to establish and maintain such offices as the commission deems necessary, subject to appropriation; (5) to enact by-laws for its own governance but not inconsistent with any general or special law; and (6) to recommend policies and make recommendations to agencies and officers of the commonwealth and local subdivisions of government to effectuate the purposes of this commission.

(g) The commission may accept and solicit funds, including any gifts, donations, grants or bequests, or any federal funds for any of the purposes of this section. Such funds shall be deposited into a separate account with the state treasurer, received by said treasurer on behalf of the commonwealth, and expended by the commission in accordance with law.

(h) Not later than December 31 of each year, the commission shall report its findings and activities of the preceding year, as well as any policy recommendations, to the governor, the clerks of the senate and the house and the joint committee on children, families and persons with disabilities.

SECTION 2. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as amended by section 1 of chapter 109 of the acts of 2007, is hereby further amended by adding the following subclause:-

(r) Information and records acquired under chapter 18C by the office of the child advocate.

SECTION 3. Section 17 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “board”, in line 21, the following words:- , the office of the child advocate.

SECTION 4. Section 81 of said chapter 6, as so appearing, is hereby amended by striking out, in line 4, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 5. Section 105 of said chapter 6, as so appearing, is hereby amended by striking out, in line 14, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 6. Section 116 of said chapter 6, as so appearing, is hereby amended by striking out, in line 44, the figure “116C” and inserting in place thereof the following figure:— 116D.

SECTION 7. Said chapter 6 is hereby further amended by inserting after section 116C the following section:—Section 116D. The municipal police training committee shall provide instruction, under section 96B of chapter 41, on the policies and procedures developed under clause (9) of section 18<sup>3/4</sup> of chapter 6A for the identification and immediate protection, care and custody of minors whose parents or guardians are arrested or placed in custody by police officers. The instruction shall be provided in the student officers’ course of study, in-service officers training, courses of supervisory training, and dispatcher and communication officer training.

SECTION 8. Section 172B of said chapter 6, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 3 and 8, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 9. Section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in line 112, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 10. Section 189 of said chapter 6, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 11. Said chapter 6 is hereby further amended by striking out section 202, as so appearing, and inserting in place thereof the following section:-Section 202. There is hereby established a child abuse prevention board, in this section and in section 203 referred to as the board, which shall consist of between 25 and 50 members, including:—

(a) the following 10 ex-officio members: the secretary of health and human services, the secretary of housing and economic development, the commissioner of early education and care, the commissioner of children and families, the commissioner of mental health, the commissioner of youth services, the commissioner of elementary and secondary education, the commissioner of public health, the commissioner of transitional assistance, and the child advocate, or their designees;

(b) the following 12 persons from the private sector appointed by the governor from recommendations by the board: 1 parent, 1 pediatrician, 1 child psychiatrist, 1 early childhood education specialist, 1 mental health specialist in child abuse, 1 district attorney, 1 teacher, 1 judge, 1 member of the Massachusetts bar, 1 criminal justice professional, 1 social worker from a private child welfare agency, and 1 representative of a private charitable foundation; and

(c) between 3 and 28 additional members appointed by the governor from recommendations by the board. These individuals shall be appointed based upon their knowledge of and interest in child abuse prevention. The governor shall seek to provide diverse geographical representation, with particular attention given to appointing members who reflect the ethnic and racial diversity of the commonwealth’s children, youth and families, and shall assure that each of the commonwealth’s 6 human service regions, established by the executive office of health and human services, is represented by 1 of the appointments.

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

The governor shall designate 1 of the appointed members of the board as chair. The board may elect other officers and committees as it deems appropriate.

The board shall employ an executive director, assistant executive director, secretary and any other staff that it deems necessary in order to carry out its duties and responsibilities. Expenditures for salaries and for other administrative functions shall be approved by the board within the limitations of section 50 of chapter 10.

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

The executive director shall be selected from applicants who have been screened and recommended by a 5-member subcommittee of the board, consisting of the chair, the commissioner of children and families, the commissioner of early education and care and 2 appointed members. Final selection of an executive director shall require approval by majority vote of the entire board and approval by the governor. The executive director shall be accountable to the board at large.

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

Notwithstanding any general or special law to the contrary, the office of children, youth and family services within the executive office of health and human services shall facilitate the implementation of this section, section 203 and the Children's Trust Fund, established by section 50 of chapter 10, but the office shall not exercise any supervision or control of the board.

SECTION 12. The second paragraph of section 203 of said chapter 6, as so appearing, is hereby amended by striking out clause (10) and inserting in place thereof the following clause:-

(10) to serve as an advocate, subject to appropriation, and provide an articulate focus for the needs of children and disseminate information to the public regarding children's services and to work in collaboration with the office of the child advocate, the department of early education and

care, the department of public health, the department of children and families, the department of elementary and secondary education and any other state agency which serves the needs of children, to promote the development of programs and services for all children, emphasizing programs for children with special needs.

SECTION 13. Said chapter 6 is hereby further amended by adding the following section:-

Section 215. There shall be an interagency child welfare task force. The secretary of health and human services shall serve as its chair. The member agencies shall include the department of children and families, the department of youth services, the department of transitional assistance, the department of mental health, the department of mental retardation, the department of public health, the department of elementary and secondary education and the department of early education and care.

The task force shall establish interagency goals each year to coordinate and streamline services to children and families and shall examine, among other issues: interagency collaboration to increase medical and mental health consultation; the availability of health and behavioral health services to children and families; collaboration with law enforcement as it relates to children and families involved with the criminal justice system; the availability of supportive day care for children in the care of the department of children and families; domestic violence awareness programs; children awaiting discharge from psychiatric inpatient units; and interagency training initiatives for staff, communities and providers.

SECTION 14. Section 16 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 15. Said section 16 of said chapter 6A, as so appearing, is hereby further amended by adding the following paragraph:-

The secretary, in consultation with the interagency child welfare task force established by section 215 of chapter 6, the commissioner of children and families and the child advocate, shall assess the commonwealth’s long-term, system-wide needs for the prevention and detection of child abuse and neglect and shall coordinate and integrate

responses across the agencies within the executive office. The secretary shall identify existing and potential resources, structural strengths and weaknesses, overlapping or conflicting efforts and opportunities for coordinated responses to child welfare issues. The secretary shall facilitate information sharing and policy synchronization among federal, state and local entities.

SECTION 16. Section 18<sup>3</sup>/<sub>4</sub> of said chapter 6A, as so appearing, is hereby amended by adding the following clause:—

(9) to develop statewide policies and procedures, including a uniform protocol, for state police and municipal police officers to report to the secretary on the identification of and immediate protection, care and custody of minors whose parents or guardians are arrested or placed in custody by police officers. The policies and procedures shall be developed in consultation with the department of children and families, the department of state police, municipal police departments and the Massachusetts Chiefs of Police Association Incorporated. The secretary shall periodically analyze this information and report the analysis to the department of children and families and appropriate state or municipal police departments.

SECTION 17. Section 17 of chapter 11 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 16, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 18. Section 20D of chapter 12 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The executive director shall annually report on the status of child abuse and neglect cases that have been referred for criminal prosecution, including the number prosecuted, the results of those prosecutions, the principal reason for decisions not to prosecute, and what resources would have assisted in those investigations and prosecutions. The report shall be filed with the clerks of the senate and the house, the senate and the house committees on ways and means, the joint committee on children, families and persons with disabilities, the joint committee on the judiciary, the child advocate, and the governor.

SECTION 19. Section 32 of said chapter 12, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “social

services” and inserting in place thereof the following words:- children and families.

SECTION 20. Section 1G of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in line 54, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 21. Section 19 of chapter 15A of the General Laws, as so appearing, is hereby amended by inserting after the word “tuition”, in line 1, the words:— and fee.

SECTION 22. Said section 19 of said chapter 15A, as so appearing, is hereby further amended by striking out the eighth paragraph and inserting in place thereof the following 2 paragraphs:—

The program shall provide full tuition and fee waivers for any state-supported course offered by an institution at a public college or university, excluding graduate courses and courses in the MD program at the University of Massachusetts Medical Center, and including courses toward an undergraduate degree program, certificate program, short-term certificate program and noncredit courses at each community college, state college and undergraduate campus of the University of Massachusetts for students who are not over the age of 24 and who, while in the custody of the department of children and families, were adopted by an eligible Massachusetts resident or commonwealth employee as determined by the department of children and families in conjunction with the human resources division. The commonwealth, not the institutions of public higher education, shall bear the cost of these waivers after all reimbursements from the federal government have been exhausted.

The program shall provide tuition and fee waivers for any person who, upon reaching the age of 18, is in the custody of the department of children and families or is the subject of a legal guardianship sponsored by the department. No such person shall be required to remain in the care of the department beyond the age of 18 to qualify for these waivers. Persons who return to the care of the department after the age of 18 may qualify for these waivers. The commonwealth, not the institutions of public higher education, shall bear the cost of these waivers after all reimbursements from the federal government have been exhausted.

SECTION 23. Section 14 of chapter 17 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 24. Section 28 of chapter 18 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 25. Section 1 of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 26. Said chapter 18B is hereby further amended by striking out sections 2 and 3, as so appearing, and inserting in place thereof the following 2 sections:-

Section 2. The department shall provide and administer a comprehensive child welfare program for children and families, including the following services:-

- (1) casework or counseling, including services to families, foster families or individuals;
- (2) protective services for children;
- (3) legal services for families, children or individuals who are clients of the department;
- (4) adoption services;
- (5) information and referral services;
- (6) foster family care for children and specialized foster family care for children with special needs;
- (7) residential care for children with special needs who are not suited for foster family care or specialized foster family care;
- (8) informal education and group activities;
- (9) training in parenthood and home management for parents, foster parents and prospective parents;
- (10) family services intended to prevent the need for foster care and services to children in foster care;
- (11) temporary residential programs providing counseling and supportive assistance for families in transition and their children who,

because of domestic violence, homelessness, or other situations, require temporary shelter and assistance;

(12) camping services;

(13) information and referral services;

(14) services for families and individuals in emergency and transitional housing;

(15) comprehensive youth development services;

(16) access to and coordination of medical, dental and mental health services for children in foster care whose families are receiving services from other state agencies; and

(17) child care placements for children whose families have an open case with the department.

Section 3. (a) The department shall provide comprehensive, area-based child welfare services. These services shall be organized by regions and areas consistent with those established by the secretary of health and human services under section 16 of chapter 6A.

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

(1) families and children which shall, among other objectives, serve to assist, strengthen and encourage family life for the care and protection of children, assist and encourage the use by any family of all available resources to this end, and provide substitute care of children only when preventive services have failed and the family itself, or the resources needed and provided to the family, cannot insure the integrity of the family and the necessary care and protection to guarantee the rights of any child to sound health and normal physical, mental, spiritual and moral development; and

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

(c) The department shall:

(1) formulate the policies, procedures and rules necessary for the full and efficient implementation of programs authorized by the laws of the commonwealth and federal laws in the area of services for children and families;

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

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

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

(5) collaborate with other departments of the commonwealth and with voluntary or private agencies or organizations to assure efficient and high-quality social and educational services for persons who are unable, for social or economic reasons, to provide such services for themselves;

(6) study the social and economic problems in the commonwealth and make recommendations to the appropriate branches and agencies of government, including the office of the child advocate, for broadening and improving the scope and quality of child welfare services; and

(7) recruit and retain foster care and pre-adoption parents sufficient for the needs of children serviced by the department, including expanded efforts through education of the public.

SECTION 27. Section 6 of said chapter 18B, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 28. Said section 6 of said chapter 18B, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- The position of commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30 and the commissioner shall devote full time to the duties of the office.

SECTION 29. Section 6A of said chapter 18B, as so appearing, is hereby amended by striking out, in line 1, the words “of social services”.

SECTION 30. Said section 6A of said chapter 18B, as so appearing, is hereby further amended by striking out, in line 42, the word “thirty A” and inserting in place thereof the following figure:- 30A.

SECTION 31. Said section 6A of said chapter 18B, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:—

The director of the unit shall submit an annual report to the governor, the child advocate and the joint committee on children, families and persons with disabilities on the performance of the unit. The report shall contain: an analysis and evaluation of the foster care review system and

recommendations, if any, for its improvement; the total number of children in the care of the department or its agents during the previous fiscal year; the number of children who were in its care for more than 6 months; the number of reviews conducted; the number of children returned to their parents or guardian; the number of children for whom guardians, other than the department or its agent, were appointed; the number of children released for adoption; and the number of children adopted.

SECTION 32. Said chapter 18B is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. (a) The commissioner shall establish reasonable caseload rates and shall report these caseload rates to the general court in the budget estimates of the department.

(b) The commissioner shall develop and implement a management information system that shall contain fiscal and personnel data, client data, and program data necessary for the ongoing administration or effective service delivery. The information system shall include, but not be limited to, a service plan for each client, with provisions for periodic review thereof. The commissioner shall adopt such rules and regulations as are deemed necessary to ensure the confidentiality of client data collected by the department.

(c) The commissioner shall develop and implement a comprehensive monitoring and evaluation system for all services under the control of the department and shall collect the necessary program and fiscal data annually.

(d) The commissioner shall conduct an annual needs assessment for all services under the control of the department.

(e) The commissioner shall report to the general court and to the child advocate: (i) annually on all services, including program and client data and unit costs, and on residential care pursuant to section 23; (ii) semi-annually on high-risk children, racial disproportionality and disparity, and service procurement pursuant to section 24; and (iii) quarterly on multiple 51A reports pursuant to section 25.

(f) The commissioner shall develop and implement a plan for the orientation and training of area-based and other staff. The plan shall require all employees be issued photo identification to be used in the performance of their duties, including for display upon introduction.

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

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

(i) The commissioner, subject to chapter 30A, shall adopt rules and regulations necessary to carry out this chapter and chapter 119.

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

(k) The commissioner shall, subject to appropriation, enter into contracts with nonprofit organizations to provide services for families and individuals in emergency and transitional housing; provided, that the department, in entering into such contracts, shall provide \$3 for each dollar of donated funds which have been committed to such nonprofit organizations from any non-state source. For the purposes of this subsection, a non-state source may include private donations or monies from city, town or county governments but shall not include funds from other state agencies.

(l) Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter 118E including, but not limited to, identifying individuals eligible for such assistance under said chapter 118E, the commissioner shall assure that such activity or policy is reviewed by the director of Medicaid.

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

(n) Upon receipt of a completed review of multiple 51A reports required under subsection (r) of section 51B of chapter 119, the commissioner shall immediately notify: (i) the district attorney for the county in which the child resides and for the county in which the event giving rise to a report occurred, (ii) local law enforcement authorities in the city or town in which the child resides and in the city or town in which the event giving rise to a report occurred, and (iii) the office of the child advocate.

SECTION 33. Section 8 of said chapter 18B, as so appearing, is hereby amended by striking out the second sentence and inserting in

place thereof the following sentence:- The position of deputy commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30.

SECTION 34. The second paragraph of section 9 of said chapter 18B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- The position of assistant commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30. Assistant commissioners shall devote full time to the duties of the office.

SECTION 35. Section 12 of said chapter 18B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The commissioner, with the advice of the area board, shall appoint an area director in each area, and, subject to appropriation, such other employees as the commissioner may deem necessary.

SECTION 36. Said section 12 of said chapter 18B, as so appearing, is hereby further amended by striking out the fifth and sixth paragraphs and inserting in place thereof the following 3 paragraphs:—

The area director shall also prepare and submit to the commissioner the proposed annual budget for the area for programs to be supported at the area level. The commissioner shall make such revisions as shall be necessary and shall include said area budgets as part of the departmental budget requests submitted annually under sections 27 and 28 of chapter 29. A copy of the area budget as included with said departmental requests shall be forwarded by the commissioner to each area director for the information of the area board.

The area director, subject to the overall supervision of the commissioner, shall supervise all employees within the area and shall be responsible for the administration of the area budget and the implementation of the area plan.

A social worker shall have a bachelor's degree at the time of appointment. A supervisory social worker shall have a master's degree in social work or a related field at the time of appointment.

SECTION 37. Said chapter 18B is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:—

Section 13. In each area established under section 3, there shall be a children and families area board, in this chapter called the area board, which shall be an agency of the commonwealth and shall serve in the department. The area board shall consist of 23 members, who shall be appointed by the commissioner for terms of 3 years.

No member shall be an employee of the department. Two-thirds of the members shall be persons other than employees of the commonwealth or its political subdivisions.

The commissioner shall seek to provide proper geographical representation in the membership of the board. Two-thirds of the members shall live within the area for which they are appointed, and the remaining members shall either live or work in the area. At least 1 member from each city and, if practicable, each town in the area shall be included.

At least 6 members shall be consumers of services provided by the department. Not more than 2 members shall be selected from nominations submitted by the president of the collective bargaining unit representing the social workers who work for the department in the area. Not more than 2 members shall be selected from private providers within the area. One member at the time of appointment shall be a member of the community mental health area board established under section 14 of chapter 19, 1 member at the time of appointment shall be a person knowledgeable in the field of mental retardation, 2 members at the time of their appointment shall be members of the local councils for children established under section 7 of chapter 28A, 2 members at the time of their appointment shall be members of the financial or business professions with special fiscal or budgetary skills, and 2 members shall at the time of their appointment be members of the community service area boards established under section 7 of chapter 18.

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

SECTION 38. Section 14 of said chapter 18B, as so appearing, is hereby amended by striking out, in lines 7, 10 and 15, the word

“thirteen” and inserting in place thereof, in each instance, the following figure:- 13.

SECTION 39. Section 15 of said chapter 18B, as so appearing, is hereby amended by inserting after the word “services”, in lines 5 and 13, the following words:- for children and families.

SECTION 40. Section 16 of said chapter 18B, as so appearing, is hereby amended by inserting after the word “services”, in line 5, the following words:- for children and families.

SECTION 41. Said section 16 of said chapter 18B, as so appearing, is hereby further amended by adding the following paragraph:-

The council shall work to facilitate the medical evaluation process and recruitment of physicians, dentists and mental health professionals to medically screen and evaluate children newly admitted to foster care. To accomplish this goal the council shall consult with pediatricians, family practice physicians or a nurse practitioners, dentists, psychiatrists, psychologists or licensed independent clinical social worker therapists, the family and probate court, the juvenile court, and the Massachusetts medical assistance program. The council shall report annually on or before December 31 to the commissioner any recommended changes to the department’s regulations or policies that would facilitate the medical evaluation process and recruitment of necessary personnel.

SECTION 42. Said chapter 18B is hereby further amended by striking out section 17, as so appearing, and inserting in place thereof the following section:-

Section 17. The department may establish centers for children and families in any facility owned or rented by the commonwealth other than state schools, hospitals or prisons, in any area if space is available or suitable for the purpose and shall, if feasible, locate these centers in a facility utilized by an agency of the commonwealth providing human services. If suitable space is not available, the department may acquire adequate space for such centers by renting, leasing or other available means. Each area shall be responsible for the delivery of services within its area. The centers shall be of sufficient number and so located as to be readily accessible to the people throughout the commonwealth.

SECTION 43. Said chapter 18B is hereby further amended by striking out section 20, as so appearing, and inserting in place thereof the following section:—Section 20. Notwithstanding section 22 of chapter 29 or any other law, funds made available by appropriation or otherwise for enabling the department to carry out the provisions of this chapter may be advanced to the department in such sums and subject to such rules and regulations as the comptroller may determine. The department shall make a monthly report to the comptroller of the amount of funds disbursed by the department subsequent to the previous monthly report and shall certify to the comptroller that such disbursements are substantiated by detailed records and vouchers retained in the custody of the department.

SECTION 44. Section 22 of said chapter 18B, as so appearing, is hereby amended by striking out, in lines 11 and 12 and 41 and 46, the words “public welfare” and inserting in place thereof, in each instance, the following words:- transitional assistance.

SECTION 45. Said chapter 18B is hereby further amended by adding the following 3 sections:-

Section 23. The commissioner shall report annually on September 1 on the number of children placed in residential care by region and the cost of care and treatment provided to those children. The information reported for each region shall include, but not be limited to: (i) the age and gender of the children; (ii) the reasons for placement; (iii) the intensity, frequency and type of services provided to each child; (iv) the length of each placement; and (v) the disposition of the child’s case at the end of the residential placement, including whether the child was returned to the child’s family or placed in other care within the community. The report shall also include the cost of residential placement by region and any other information necessary for the evaluation of the operation of state-funded residential homes. The report shall be filed with the clerks of the senate and the house, the senate and house committees on ways and means, the joint committee on children, families and persons with disabilities, the office of the child advocate, and the governor.

Section 24. The commissioner shall report semi-annually on: (i) the status of high-risk children and the department’s efforts to identify such children and address their needs for child protection; (ii) the status of

racial disproportionality and disparity of the department's client population and its efforts, including the use of culturally competent staffing, resources and practices, to reduce overrepresentation of children of color in the child welfare system; (iii) the status of the department's procurement of services; and (iv) the status of children who, due to their age, are transitioning out of the child welfare system. The reports shall be filed with the clerks of the senate and the house, the senate and house committees on ways and means, the joint committee on children, families and persons with disabilities, the office of the child advocate, and the governor.

Section 25. In addition to the immediate notification required under subsection (n) of section 7, the commissioner shall report quarterly on the total number of cases of multiple 51A reports reviewed by the department under subsection (r) of section 51B of chapter 119, the types of those cases, and their resolutions. The report shall be filed with the governor, the clerks of the senate and the house, the joint committee on children, families and persons with disabilities, and the child advocate.

SECTION 46. The General Laws are hereby amended by inserting after chapter 18B the following chapter:-

#### CHAPTER 18C

#### OFFICE OF THE CHILD ADVOCATE

Section 1. As used in this chapter, the following words shall have the following meanings, unless the context clearly requires otherwise:—

“Advisory board”, the child advocate advisory board established by section 4.

“Child advocate”, the child advocate appointed under section 3.

“Critical incident”, (a) a fatality, near fatality, or serious bodily injury of a child who is in the custody of or receiving services from the executive office of health and human services or 1 of its constituent agencies; or (b) circumstances which result in a reasonable belief that the executive office of health and human services or 1 of its constituent agencies failed in its duty to protect a child and, as a result, the child was at imminent risk of, or suffered, serious bodily injury.

“Department”, the department of children and families.

“Executive agency”, a state agency within the office of the governor that includes the executive office of education, the executive office of public safety and security, executive office of health and human services, the Massachusetts interagency council on homelessness and housing

established by Executive Order No. 492 and the executive office of housing and economic development.

“Office”, the office of the child advocate.

“Serious bodily injury”, bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Section 2. There shall be an office of the child advocate which shall be independent of any supervision or control by any executive agency. The office shall:

(a) ensure that children involved with an executive agency, in particular, children served by the child welfare or juvenile justice systems, receive timely, safe and effective services;

(b) ensure that children placed in the care of the commonwealth or treated under the supervision of an executive agency in any public or private facility shall receive humane and dignified treatment at all times, with full respect for the child's personal dignity, right to privacy, and right to a free and appropriate education in accordance with state and federal law;

(c) examine, on a system-wide basis, the care and services that executive agencies provide children; and

(d) advise the public and those at the highest levels of state government about how the commonwealth may improve its services to and for children and their families.

Section 3. The office shall be under the direction of the child advocate, who shall devote full time to the duties of this office. The child advocate shall serve at the pleasure of the governor and report directly to the governor. The child advocate may, subject to appropriation, appoint such other personnel as he deems necessary for the efficient management of the office. The governor shall appoint the child advocate to a term coterminous with that of the governor, except that the child advocate shall continue to serve following the end of a governor's term until a successor is appointed.

The governor shall appoint the child advocate from among 3 nominees submitted by a nominating committee to recommend a child advocate. The nominating committee shall consist of: the secretary of health and human services; the commissioner of children and families; the commissioner of youth services; commissioner of mental health; the executive director of the child abuse prevention board; a pediatrician experienced in treating child abuse designated by the Massachusetts

chapter of the American Academy of Pediatrics; a child psychiatrist designated by the Massachusetts Psychiatric Society; a child psychologist designated by the Massachusetts Psychological Association; a representative from the Massachusetts Association of Mental Health; a representative of an organization which advocates on behalf of children at risk of abuse designated by the Children's League of Massachusetts; a lawyer experienced in care and protection cases designated by the Massachusetts Bar Association; a social worker designated by the Massachusetts Chapter of the National Association of Social Workers; a person with experience in the juvenile justice system designated by the chief justice of the juvenile court department; and a representative of organized labor to be designated by the president of the collective bargaining unit that represents the social workers of the department.

A vacancy occurring in the position of child advocate shall be filled in the same manner, except that if the child advocate ceases to serve for any reason, the governor shall appoint an acting child advocate who shall serve until the appointment of a successor.

Section 4. There shall be a 25-member child advocate advisory board. The advisory board shall consist of the child advocate, who shall serve as chair, the secretary of health and human services, the secretary of public safety and security, the secretary of education, the executive director of the criminal history systems board, the undersecretary of criminal justice from the executive office of public safety and security, the commissioner of early education and care, the commissioner of elementary and secondary education, the commissioner of mental health, the commissioner of mental retardation, the commissioner of public health, the commissioner of children and families, the commissioner of transitional assistance, the commissioner of youth services, the deputy commissioner of the child support enforcement division within the department of revenue, the president of the Massachusetts District Attorneys Association, the commissioner of probation, the chief counsel of the committee for public counsel services, the chief justice of the superior court department, the chief justice of the juvenile court department, the chief justice of the probate and family court department, the executive director of the child abuse prevention board, and 3 persons appointed by the governor.

Section 5. (a) An executive agency shall inform the child advocate when a critical incident has occurred. The child advocate may conduct an investigation of the critical incident or may review an executive agency's investigation of a critical incident. When the child advocate

conducts his own investigation, he shall determine: (1) the factual circumstances surrounding the critical incident; (2) whether an agency's activities or services provided to a child and his family were adequate and appropriate and in accordance with agency policies and state and federal law; and (3) whether the agency's policies, regulations, training or delivery of services or state law can be improved.

(b) Before investigating any critical incident, the child advocate shall determine whether an executive or law enforcement agency is already conducting an investigation. If a law enforcement agency is conducting an investigation, the child advocate shall, when appropriate, defer to that agency or may conduct his own investigation. The child advocate shall coordinate efforts to minimize the impact on the child, family or employees of the agency involved, unless he determines such coordination would impede his investigation. If an executive agency is conducting an investigation, the child advocate may defer to that investigation or may conduct his own investigation. The child advocate may coordinate efforts to minimize the impact on the child, family or employees of the agency involved. In every instance, the child advocate shall notify the head of the relevant agency of his involvement before beginning any investigation.

(c) The child advocate shall receive complaints relative to the provision of services to children by an executive agency and shall review and monitor the complaints that reasonably cause him to believe that a child may be in need of assistance and to ensure that the complaint is resolved. If the complaint is not resolved by the relevant executive agency within a reasonable period of time in light of the circumstances, if the resolution is determined to be unsatisfactory to the child advocate, or if the complaint reasonably causes the child advocate to believe that a child may be in need of immediate assistance, he may conduct an investigation of the complaint.

(d) The child advocate shall receive complaints from children in the care of the commonwealth and assist such children in resolving problems and concerns associated with their placement, plans for life-long adult connections and independent living, and decisions regarding custody of persons aged between 18 and 22, including ensuring that relevant executive agencies have been alerted to the complaint and facilitating intra-agency cooperation, if appropriate. For the purposes of this section, the office shall develop procedures to ensure appropriate responses to the concerns of youth in foster care 24 hours a day, 7 days a week.

(e) The child advocate shall periodically review, report and make recommendations, as appropriate, with respect to system-wide improvements that may increase the effectiveness of the care and services provided to children and their families and suggested legislative and regulatory changes including, but not limited to, a review of the programs and procedures established by the department to provide and administer a comprehensive child welfare program under section 2 of chapter 18B.

(f) At the request of the governor, the child advocate shall perform oversight functions to ensure that agencies serving children are fulfilling their obligations in the most effective and efficient manner.

(g) The child advocate shall undertake activities designed to educate the public regarding the services of the office and of the mission of the executive agencies in providing services to children and families.

(h) The child advocate shall be authorized to apply for, and accept on behalf of the commonwealth, federal, local or private grants, bequests, gifts or contributions for the purpose of carrying out the functions of the office.

Section 6. The child advocate or his designee shall have access at any and all reasonable times to any facility, residence, program, or portion thereof, that is operated, licensed or funded by an executive agency, and to all relevant records, reports, materials and employees in order to better understand the needs of children in the custody of the commonwealth or who are receiving services from an executive agency. The child advocate shall be bound by any limitations on the use or release of information imposed by law upon the party furnishing such information, except as provided in subsection (e) of section 12.

Section 7. The child advocate may request the attendance and testimony of witnesses and the production of documents, papers, books, records, reports, reviews, recommendations, correspondence, data and other evidence that the child advocate reasonably believes is relevant. If a request is denied, the child advocate shall have the power to issue a subpoena for witnesses and the production of documents and any other data and evidence that the child advocate reasonably believes is relevant.

If any person to whom a subpoena is issued fails to appear or, having appeared, refuses to give testimony or fails to produce the evidence required, the child advocate may apply to the Suffolk county superior court to issue an order to compel the testimony and production of documents of any such witnesses. A failure to obey the order may be punished as contempt.

The district attorney may seek injunctive relief in Suffolk county superior court to defer a subpoena issued by the child advocate.

Section 8. No discriminatory or retaliatory action shall be taken against any person who communicates with or provides information to the office. Any person who knowingly or willfully discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees.

Section 9. The child advocate shall develop internal procedures appropriate for the effective performance of his duties.

The child advocate may, subject to chapter 30A, adopt, amend or repeal such rules and regulations as are deemed necessary to carry out the functions of the office.

Section 10. The child advocate shall report annually to the governor, the president of the senate, the speaker of the house, the senate and the house committees on ways and means, and the chairs of the joint committee on children, families and persons with disabilities on the activities of the office, including an analysis of activities undertaken to implement subsection (d) of section 5, recommendations for changes in agency procedures which would enable the commonwealth to better provide services to and for children and their families and priorities for implementation of those changes to services. The report shall be made public.

Section 11. (a) The child advocate, in consultation with the advisory board and the interagency child welfare task force established by section 215 of chapter 6, shall formulate a comprehensive plan, with periodic benchmarks and cost estimates, to recommend a coordinated, system-wide response to child abuse and neglect, including related mental health, substance abuse and domestic violence issues. The comprehensive plan shall look forward 5 years or more, shall be updated annually to plan for the ensuing 5-year period, shall assess previous efforts and, if appropriate, shall include legislative and regulatory recommendations, such as changes to the issues itemized in the comprehensive plan.

(b) The child advocate may seek advice broadly from individuals with expertise in child welfare in formulating the plan and consult with, social workers of the department, pediatricians, child psychiatrists, early childhood education and adolescent behavior specialists, parents of children who have received services from the commonwealth, and persons who, as children, were clients of the department.

(c) The comprehensive plan shall be filed annually with the governor, the clerks of the senate and the house, the senate and house committees on ways and means, and the joint committee on children, families and persons with disabilities.

(d) The comprehensive plan shall examine the status of and address the following issues:—

(1) racial disproportionality and disparity of the department's client population, including the effectiveness of reforms designed to address overrepresentation of children of color within that population;

(2) the needs of families whose children are truant, runaways, or whose conduct interferes with their parent's ability to adequately care for and protect them. The plan shall propose a system of community-based programs to assist these children and families by providing services on a continuum of increasing intensity with the goal of keeping children out of the juvenile justice and child protection systems. The plan shall examine: (i) the existing complex system of services available from multiple public and private agencies; (ii) the differences in service delivery throughout the state; (iii) the need for immediate response to stabilize a family in crisis and to connect the family to services in their own community; and (iv) the collection and analysis of information needed to evaluate and identify gaps in service to such children and families throughout the commonwealth;

(3) mandated reporting, including: (i) the quality and quantity of training provided to mandated reporters; (ii) standards for training based on best practices for recognizing and reporting suspected child abuse and neglect; and (iii) the use of the following as forums for training mandated reporters: online programs, training offered by state agencies, and existing programs of professional training such as those required for initial licensure or certification and relicensure or recertification, continuing education programs or in-service training;

(4) screening of child abuse and neglect reports, including: (i) centralizing the reporting and screening processes; (ii) a single, 24-hour, toll-free telephone number for all oral reports, a single fax number or mailing address for all written reports and internet-based filing of reports; (iii) multiple reports filed about a particular child or family; (iv) a determination of when and under what conditions reports may have been inappropriately screened out and the impact of those decisions; and (v) direct, electronic access to the National Crime Information Center for criminal history records and warrants;

(5) child protection teams, which are multidisciplinary teams that provide specialized medical examinations of children who present signs of abuse or neglect and that include pediatricians or pediatric nurses and psychologists or social workers who have been trained to recognize child abuse and neglect, including statewide expansion to regional hospitals, all hospitals with emergency rooms and all pediatric care hospitals;

(6) the shortage of experts in the commonwealth who specialize in the prevention, diagnosis and treatment of abused or neglected children, with recommendations to train pediatricians and pediatric nurse practitioners to become clinical experts who are knowledgeable and competent in all areas of child abuse and neglect, including: the identification, assessment, and treatment of physical abuse, sexual abuse, neglect, emotional abuse and neglect and factitious illness by proxy; multi-disciplinary training with law enforcement, state and local agencies and child advocacy centers; collection of forensic evidence; court testimony; research; and child advocacy;

(7) family engagement model or other nationally recognized models to strengthen child welfare practice, including: (i) the evaluation of the model and its use of differential response and risk assessment tools to determine how effectively findings of abuse or neglect are made; (ii) the cost to implement the model state-wide; (iii) the combination of departmental functions such that an individual social worker investigates, assesses and provides ongoing case management, particularly as that combination impacts incidents requiring specialized investigatory skills; (iv) delays in the fair hearing process; and (v) time limits allowed for screenings, investigations and assessments;

(8) social worker caseloads and teaming, including: (i) the effects of teaming on caseloads and of caseloads on teaming; (ii) the cost of state-wide adoption of various standard caseload ratios; (iii) a potential multi-year plan to reduce caseloads; and (iv) duties handled by social workers that may be more affordably and efficiently handled by other staff;

(9) law enforcement involvement, including: (i) how effectively the department and law enforcement collaborate and whether there is room for improvement or coordination of resources; (ii) protocols for mandatory reporting of certain abuse or neglect to local law enforcement and district attorneys and (iii) potential alignment with efforts to prevent or prosecute domestic violence and with the procedures used in the investigation of sexual abuse, such as the sexual abuse intervention network and the sexual assault nurse examiners program;

(10) schools of social work, including: (i) how effectively social work and related degree programs teach child welfare practice; (ii) greater cooperation between the department and higher education to study child welfare issues; (iii) the capacity of public and private schools to meet increased demand for social work and related degrees, including concentrations in child welfare; and (iv) a timeline for inclusion of child welfare concentrations in bachelor's and master's degree programs at public institutions of higher education;

(11) social worker qualifications, including the infrastructure needed to support a more qualified workforce, such as full implementation of proposed programs at the child welfare institute and the transferability of certificate coursework to degree-granting programs;

(12) confidentiality, including research of legal and ethical considerations to be addressed if information relative to cases of child abuse and neglect is shared between the office and other executive agencies;

(13) health service needs of the department's client population and health consultation needs of the department, including: (i) the need for physical and behavioral health services and consultation, including those related to mental health and substance abuse treatment; (ii) coordination and consultation among executive agencies; (iii) proposed best-practice models for more effective client behavioral health services; and (iv) oversight and peer review of the safety and effectiveness of the use of psychotropic drugs by children involved with executive agencies;

(14) critiques of the department, including: (i) potential alignment of a internal or external audit unit with the department's continuous quality improvement and quality service review initiatives; and (ii) dissemination of the findings of these critiques to policy makers within and outside of the department;

(15) criminal offender record information reviews, including: (i) the use of these reviews in out-of-home, kinship and foster placements and (ii) areas for improved efficiency and equality;

(16) permanency planning for those who, due to their age, are transitioning out of the child welfare system to assist with health care, housing, higher education, long-term interpersonal connections and other needs for independent living;

(17) examine the frequency of transitions in the treatment plans and living placements of foster children;

(18) provide an analysis of the administrative and cost requirements and recommendations to create a personal needs and individual development account for each child in foster care over the age of 14;

(19) review the process of adopting children in foster care and recommend streamlined procedures to reduce the time required to complete the adoption process;

(20) the impact on child welfare efforts of the early and periodic screening, diagnostic and treatment services provision and reasonable promptness provision of the federal Medicaid law, 42 U.S.C. 1396a(a)(10)(A),-(a)(43), 1396d(r)(5),-(a)(4)(B), and 1396a(a)(8)(2005), respectively;

(21) oversight provided by MassHealth and its contractors of medical and behavioral health expenditures made on behalf of the department's client population;

(22) federal funding available for child welfare purposes and factors affecting that funding, including: (i) the Title IV-E saturation rate for foster children, (ii) the determination of AFDC status for the non-TANF population, and (iii) expedited judicial determinations made within the required time frames;

(23) an estimate of the expenditure necessary to implement an annual adjustment to the daily rate for maintenance payments to foster care, adoptive and guardianship families, to provide care so as to meet the rate recommended periodically by the United States Department of Agriculture; and

(24) the effectiveness of the state's child abuse laws as they relate to defining, prohibiting, preventing and reporting cases of emotional abuse of children, including recommendations to increase public and professional education and awareness of the symptoms and impact of emotional abuse.

Section 12. The following provisions apply to information and records obtained, reviewed or maintained by the child advocate:

(a) Notwithstanding chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, sections 51E and 51F of chapter 119, chapter 112, chapter 123, or sections 20B, 20J, or 20K of chapter 233 to the contrary, the disclosure of information to the office of the child advocate pursuant to this chapter shall not be prohibited. Any information considered to be confidential under the aforementioned sections shall be submitted for the child advocate's review upon the determination of the child advocate that the review of said information is necessary. The child advocate shall ensure that no information submitted

for his review is disseminated to parties outside the office. Under no circumstances shall the child advocate or any employee of the office violate the confidentiality provisions set forth in the aforementioned statutes, except as authorized under subsection (e).

(b) Any and all information and records acquired by the child advocate in the exercise of the office's purpose and duties under this chapter shall be confidential and exempt from disclosure under chapter 66 and clause Twenty-sixth of section 7 of chapter 4.

(c) Information, documents and records of the child advocate and his office shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during the child advocate's investigation or maintained by the office of the child advocate.

(d) Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(e) The restrictions of this section shall not preclude the child advocate from sharing with the governor, the attorney general, a district attorney, a secretary, an agency commissioner or other agency personnel, or the chairs of the joint committee on children, families and persons with disabilities, the report of, or the results of, a critical incident investigation involving that agency. Any executive or legislative branch employees who receive or read such a document shall be bound by the confidentiality requirements of this section.

Section 13. No person employed by or contracted by or volunteering for the office shall be subject to suit directly, derivatively or by way of contribution or indemnification for any civil damages under the laws of the commonwealth resulting from any act or omission performed during or in connection with the discharge of his duties within the scope of his employment or appointment, unless such act or failure to act was committed with gross negligence, maliciously, or in bad faith.

SECTION 47. Subsection (a) of section 16 of chapter 19A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- In planning this system, the department shall require input from other protective service agencies and other

agencies currently involved in the provision of social, health, legal, nutritional and other services to the elderly, as well as elderly advocacy organizations.

SECTION 48. Section 7 of chapter 22A of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 49. Section 68 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- These special state police officers shall serve for 1 year, subject to removal by the colonel, and they shall have and exercise throughout the commonwealth the same powers as state police officers to serve warrants and other criminal processes for any criminal offense resulting from either a fraudulent claim for payment or service under any assistance program administered by the department of transitional assistance or any program administered by the department of children and families or a receipt of payment or services by a person entitled thereto or for any violation of chapter 273 relative to the support of spouses and children for whom the department of transitional assistance is entitled to receive payment, or in whose behalf said department is giving aid. They shall not have the authority to arrest without a warrant.

SECTION 50. Section 10 of chapter 28A of the General Laws is hereby amended by striking out, in line 49, as so appearing, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 51. Said section 10 of said chapter 28A is hereby further amended by striking out paragraph (f), as so appearing, and inserting in place thereof the following paragraph:-

(f) The office shall promptly investigate and evaluate any notice transmitted to the office by the department of children and families under subsection (l) of section 51B of chapter 119. The investigation and evaluation shall determine whether the facility being operated by a person subject to licensure under this section is being operated in compliance with this chapter and with the rules and regulations established under paragraph (c). If, during the course of the investigation

or a licensing study conducted by the office, any agent or employee of the office receives or discovers information concerning the occurrence of child abuse or neglect, that agent or that employee shall make a report to the department of children and families under section 51A of said chapter 119.

SECTION 52. Section 9B of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 53. Section 48 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in line 93, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 54. Chapter 38 of the General Laws is hereby amended by striking out section 2A, as so appearing, and inserting in place thereof the following section:—

Section 2A. (a) As used in this section, the following words shall have the following meanings:—

“Child”, a person under the age of 18.

“Fatality”, any death of a child.

“Local team”, a local child fatality review team established pursuant to subsection (c).

“Near fatality”, an act that, as certified by a physician, places a child in serious or critical condition.

“State team”, the state fatality review team established by subsection (b).

“Team”, the state or a local team.

(b) There shall be a state child fatality review team within the office of the chief medical examiner. Notwithstanding section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of the state police, on behalf of the chief medical examiner. All members shall serve without compensation for their duties associated with membership on the state team.

The state team shall consist of at least the following members:— the chief medical examiner, who shall chair the state team; the attorney general or a designee; the commissioner of children and families or a designee; the commissioner of public health or a designee; the

commissioner of elementary and secondary education or a designee; a representative selected by the Massachusetts District Attorneys Association; the colonel of the state police or a designee; the commissioner of mental health or a designee; the commissioner of mental retardation or a designee; the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center, or a designee; the commissioner of youth services or a designee; a representative selected by the Massachusetts chapter of the American Academy of Pediatrics who has experience in diagnosing or treating child abuse and neglect; a representative selected by the Massachusetts Hospital Association; the chief justice of the juvenile division of the trial court or a designee; the president of the Massachusetts Chiefs of Police Association Incorporated or a designee; the child advocate appointed under section 3 of chapter 18C or a designee; and any other person, selected by the chair or by majority vote of the members of the state team, with expertise or information relevant to an individual case.

The purpose of the state team shall be to decrease the incidence of preventable child fatalities and near fatalities by:(i) developing an understanding of the causes and incidence of child fatalities and near fatalities; and (ii) advising the governor, the general court and the public by recommending changes in law, policy and practice that will prevent child fatalities and near fatalities.

To achieve its purpose, the state team shall:

- (i) develop model investigative and data collection protocols for local teams;
- (ii) provide information to local teams and law enforcement agencies for the purpose of the protection of children;
- (iii) provide training and written materials to local teams to assist them in carrying out their duties;
- (iv) review reports from local teams;
- (v) study the incidence and causes of child fatalities and near fatalities in the commonwealth;
- (vi) analyze community, public and private agency involvement with the children and their families prior to and subsequent to fatalities or near fatalities;
- (vii) develop a protocol for the collection of data regarding fatalities and near fatalities and provide training to local teams on the protocol;
- (viii) develop and implement rules and procedures necessary for its own operation; and

(ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, which shall include, but not be limited to, the state team's findings and recommendations.

(c) There shall be a local child fatality review team in each of the 11 districts headed by a district attorney. Notwithstanding section 172 of chapter 6, members of a local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on a local team.

Each local team shall be comprised of at least the following members: the district attorney of the county, who shall chair the local team; the chief medical examiner or a designee; the commissioner of children and families or a designee; a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team; a local police officer from the municipality where the child fatality or near fatality occurred, appointed by the chief of police of that municipality; a state law enforcement officer, appointed by the colonel of state police; the chief justice of the juvenile division of the trial court or a designee; the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center, or a designee; the commissioner of public health or a designee; and any other person with expertise or information relevant to an individual case who may attend meetings, on an ad hoc basis, by agreement of the permanent members of each local team. Those other persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of mental retardation, mental health, youth services and education.

The purpose of each local team shall be to decrease the incidence of preventable child fatalities and near fatalities by: (i) coordinating the collection of information on fatalities and near fatalities; (ii) promoting cooperation and coordination between agencies responding to fatalities and near fatalities and in providing services to family members; (iii) developing an understanding of the causes and incidence of child fatalities and near fatalities in the county; and (iv) advising the state team on changes in law, policy or practice which may affect child fatalities and near fatalities.

To achieve its purpose, each local team shall:

(i) review, establish and implement model protocols from the state team;

(ii) review, subject to the approval of the local district attorney, all individual fatalities and near fatalities in accordance with the established protocol;

(iii) meet periodically, but at least 4 times per calendar year, to review the status of fatality and near fatality cases and recommend methods of improving coordination of services between member agencies;

(iv) collect, maintain and provide confidential data as required by the state team; and

(v) provide law enforcement or other agencies with information for the purposes of the protection of children.

At the request of the local district attorney, the local team shall be immediately provided with:

(i) information and records relevant to the cause of the fatality or near fatality maintained by providers of medical or other care, treatment or services, including dental and mental health care;

(ii) information and records relevant to the cause of the fatality or near fatality maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records, and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney;

(iii) information and records of any provider of social services, including the state department of children and families, relevant to the child or the child's family, that the local team deems relevant to the review; and

(iv) demographic information relevant to the child and the child's immediate family, including but not limited to, address, age, race, gender, and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

(d) Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapters 112, 123, or sections 20B, 20J or 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair of the state team or a local team. Any information considered to be confidential pursuant to the aforementioned statutes may be submitted for a team's review upon the determination of that team's chair that the review of this information is necessary. The chair shall ensure that no

information submitted for a team's review is disseminated to parties outside the team. Under no circumstances shall any member of a team violate the confidentiality provisions set forth in the aforementioned statutes.

Except as necessary to carry out a team's purpose and duties, members of a team and persons attending a team meeting may not disclose any information relating to the team's business.

Team meetings shall be closed to the public. Information and records acquired by the state team or by a local team pursuant to this chapter shall be confidential, exempt from disclosure under chapter 66, and may only be disclosed as necessary to carry out a team's duties and purposes.

Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(e) Members of a team, persons attending a team meeting and persons who present information to a team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a team meeting.

(f) Information, documents and records of the state team or of a local team shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during proceedings of a team or are maintained by a team.

(g) Nothing in this section shall limit the powers and duties of the chief medical examiner or district attorneys.

SECTION 55. Section 3 of said chapter 38, as so appearing, is hereby amended by striking out, in line 43, the words "social services" and inserting in place thereof the following words:- children and families.

SECTION 56. Section 1A of chapter 46 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words "social services" and inserting in place thereof the following words:- children and families.

SECTION 57. Section 6 of said chapter 46, as so appearing, is hereby amended by striking out, in lines 4 and 6, the words "social

services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 58. Subsection (g) of section 13 of said chapter 46, as so appearing, is hereby amended by adding the following sentence:- If a person who was in the custody of the department of children and families is adopted and the adopting parents surrender the person back to the department, that person shall have the right to change the birth certificate back to that person’s biological name.

SECTION 59. Said section 13 of said chapter 46 is hereby further amended by striking out, in lines 193 and 194, and in line 200, as so appearing, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 60. Section 21 of chapter 62C of the General Laws is hereby amended by striking out, in line 34, as so appearing, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 61. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in lines 64 and 65, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 62. Section 37L of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The school committee of each city, town or regional school district shall inform teachers, administrators, and other professional staff of reporting requirements for child abuse and neglect under section 51A of chapter 119 and the reporting requirements for fires under section 2A of chapter 148.

SECTION 63. Said section 37L of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 12 and 15, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 64. Section 1 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in line 55, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 65. Section 2 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 66. Section 3 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 178, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 67. Section 5A of said chapter 71B, as so appearing, is hereby amended by striking out, in line 50, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 68. Section 10 of said chapter 71B, as so appearing, is hereby amended by striking out, in lines 37 and 45 , the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 69. Section 12B of said chapter 71B, as so appearing, is hereby amended by striking out, in line 12, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 70. Section 7 of chapter 74 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 71. Section 7A of said chapter 74, as so appearing, is hereby amended by striking out, in line 4, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 72. Section 8A of said chapter 74, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 73. Section 15A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words “social services, the office of child care services” and inserting in place thereof the following words:- children and families, the department of early education and care.

SECTION 74. Section 7 of chapter 76 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 15, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 75. Section 4J of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 76. Said chapter 111 is hereby further amended by striking out section 24K, inserted by section 2 of chapter 356 of the acts of 2006, and inserting in place thereof the following section:-

Section 24L. (a) The department of public health shall collaborate with the department of children and families, the child abuse prevention board and staff of the Children's Trust Fund, the office of the child advocate, other state agencies serving families and children, health care providers, law enforcement personnel, human service providers, and child advocacy organizations to develop and implement a comprehensive, state-wide shaken baby syndrome prevention initiative to reduce death and disability resulting from shaken baby syndrome. The initiative shall be subject to appropriation and shall include, but not be limited to:

(1) the institution of a program to educate parents or guardians concerning shaken baby syndrome prevention, provided that parents or guardians of a newborn shall, by the time of discharge from a hospital or birth center, receive education and materials to be developed by the department of public health describing the dangers of shaking infants and children and the risks associated with shaken baby syndrome. Education

and materials shall include, but not be limited to, information concerning the medical and physical effects of shaking infants and children, appropriate methods of handling infants and children, methods of preventing and reducing the risk of shaking infants and children, and the availability of community-based programs and other resources to prevent shaken baby syndrome;

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

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

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

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

(c) The department of public health may adopt regulations to implement this section. The department shall consult with a state-wide advisory group of interested parties before implementation of the initiative and the regulations adopted under this section. The department shall, in consultation with the department of children and families, the office of the child advocate, and the child abuse prevention board and staff of the Children's Trust Fund, conduct an annual evaluation of the shaken baby syndrome prevention initiative and shall report annually to the governor concerning the activities undertaken as part of the initiative and the results of the annual evaluation. A copy of the report shall be filed with the clerks of the senate and the house not later than February 1 of each year.

SECTION 77. Section 220 of said chapter 111, as appearing the 2006 Official Edition, is hereby amended by striking out, in line 23, the words "social services" and inserting in place thereof the following words: children and families.

SECTION 78. The first paragraph of section 13A of chapter 111E of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The division shall, in accordance with this section, accept for referral children determined to be in need of services under section 39G of chapter 119 and referred to the division by the department of children and families, hereinafter referred to as the department, or by the juvenile court.

SECTION 79. Section 3 of chapter 111G of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “public welfare, the department of social services, and the office for children” and inserting in place thereof the following words:- transitional assistance, the department of children and families and the department of early education and care.

SECTION 80. Section 4B of chapter 118 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 81. Section 22 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 82. Chapter 119 of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. It is hereby declared to be the policy of this commonwealth to direct its efforts, first, to the strengthening and encouragement of family life for the care and protection of children; to assist and encourage the use by any family of all available resources to this end; and to provide substitute care of children only when the family itself or the resources available to the family are unable to provide the necessary care and protection to insure the rights of any child to sound health and normal physical, mental, spiritual and moral development.

The purpose of this chapter is to insure that the children of the commonwealth are protected against the harmful effects resulting from the absence, inability, inadequacy or destructive behavior of parents or parent substitutes, and to assure good substitute parental care in the event

of the absence, temporary or permanent inability or unfitness of parents to provide care and protection for their children.

The health and safety of the child shall be of paramount concern and shall include the long-term well-being of the child.

In all matters and decisions by the department of children and families, the policy of the department, as applied to children in its care and protection or children who receive its services, shall be to define best interests of the child as that which shall include, but not be limited to, considerations of precipitating factors and previous conditions leading to any decisions made in proceedings related to the past, current and future status of the child, the current state of the factors and conditions together with an assessment of the likelihood of their amelioration or elimination; the child's fitness, readiness, abilities and developmental levels; the particulars of the service plan designed to meet the needs of the child within the child's current placement whether with the child's family or in a substitute care placement and whether such service plan is used by the department or presented to the courts with written documentation; and the effectiveness, suitability and adequacy of the services provided and of placement decisions, including the progress of the child or children therein. The department's considerations of appropriate services and placement decisions shall be made in a timely manner in order to facilitate permanency planning for the child.

In all department proceedings that affect the child's past, current and future placements and status, when determining the best interests of the child, there shall be a presumption of competency that a child who has attained the age of 12 is able to offer statements on the child's own behalf and shall be provided with timely opportunities and access to offer such statements, which shall be considered by the department if the child is capable and willing. In all matters relative to the care and protection of a child, the ability, fitness and capacity of the child shall be considered in all department proceedings.

For purposes of this section, the words "all department proceedings" shall include departmental hearings and proceedings but shall not include a court proceeding even when the department is a party.

SECTION 83. Said chapter 119 is hereby further amended by striking out sections 21 to 23, inclusive, as so appearing, and inserting in place thereof the following 4 sections:—

Section 21. As used in sections 21 to 55H, inclusive, the following words shall have the following meanings, unless the context clearly otherwise requires:—

“51A report”, a report filed with the department under section 51A that details suspected child abuse or neglect.

“Child”, a person under the age of 18.

“Child advocate”, the child advocate appointed under chapter 18C.

“Child in need of services”, a child between the ages of 6 and 16 who: (a) repeatedly runs away from the home of a parent or legal guardian; (b) repeatedly fails to obey the lawful and reasonable commands of a parent or legal guardian, thereby interfering with the parent’s or legal guardian’s ability to adequately care for and protect the child; (c) repeatedly fails to obey lawful and reasonable school regulations; or (d) when not otherwise excused from attendance in accordance with lawful and reasonable school regulations, willfully fails to attend school for more than 8 school days in a quarter.

“Commissioner”, the commissioner of children and families.

“Custody”, the power to: (1) determine a child’s place of abode, medical care and education; (2) control visits to a child; and (3) consent to enlistments, marriages and other contracts otherwise requiring parental consent. If a parent or guardian objects to the carrying out of any power conferred by this paragraph, that parent or guardian may take application to the committing court and the court shall review and make an order on the matter.

“Department”, the department of children and families.

“Mandated reporter”, a person who is: (i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family day care systems or child care food programs, licenser of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a

district court, parole officer, social worker, foster parent, firefighter, police officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis; (v) in charge of a medical or other public or private institution, school or facility or that person's designated agent; or (vi) the child advocate.

“Parent”, a mother or father, unless another relative has been designated as a parent as defined in section 1 of chapter 118 for the purposes of receiving benefits from the department of transitional assistance.

“Qualified expert”, a person who is qualified as an expert according to the rules of the common law or by statute or is an agent of the department or of an approved charitable corporation or agency substantially engaged in the foster care or protection of children.

“Relative”, the father or mother of a child; a stepfather, stepmother, stepbrother, stepsister, or any blood relative of a child, including those of the half blood, except cousins who are more distantly related than first cousins; any adoptive relative of equal propinquity to the foregoing; or a spouse of any such persons.

“Serious bodily injury”, bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Section 21A. Evidence in proceedings under sections 21 to 55H shall be admissible according to the rules of the common law and the general laws and may include reports to the court by a qualified expert who has made an investigation of the facts relating to the welfare of the child. The qualified expert may file with the court in a proceeding under said sections a report in full of all the facts obtained as a result of such investigation. The qualified expert may be called as a witness by any party for examination as to the statements made in the report. The examination shall be conducted as though it were on cross-examination. Evidence may include testimony of foster parents or pre-adoptive parents concerning the welfare of a child if such child has been in the care of the foster or pre-adoptive parents for 6 months or more, and may include the

testimony of the child if the court determines that the child is competent and willing, after consultation with counsel, if any, to testify.

Section 22. An agent of the department shall visit each family foster home, not supervised and approved by a licensed placement agency, at least once a year and may be authorized by the department to remove a child to its care if, in its judgment, the welfare of the child or its protection from neglect or abuse so require. An agent who is refused entry or hindered in the removal of such child may make complaint, on oath, to a justice of the court having jurisdiction, who may thereupon issue a warrant authorizing the agent to obtain sufficient aid and, at any reasonable time, enter the building designated, and any part thereof, to investigate the treatment and condition of a child found there and to remove the child as herein provided. The department shall take the child temporarily into its care, immediately notify the child's parent or legal guardian and, upon request, discharge the child to a parent or legal guardian. If the parent or legal guardian is unable or refuses to make suitable provisions for the child, the department shall make lawful provisions for the child's care under section 23 or 24.

Section 23. (a) The department shall have the responsibility, including financial responsibility, for providing foster care for children through its own resources or by use of appropriate voluntary agencies, according to the rules and regulations of the department, in the following instances:-

(1) If a child, parent, guardian, or any person acting on behalf of a child, applies for foster care, the department may accept a child who, in the judgment of the department, is in need of foster care. Such acceptance shall entail no abrogation of parental rights or responsibilities, but the department may accept from parents a temporary delegation of certain rights and responsibilities necessary to provide the foster care for a period of time under conditions agreed upon by both and terminable by either. If the department determines that continued placement beyond 6 months is required for reasons unrelated to parental unfitness and the parent consents to continued placement, the department may file a petition for care and responsibility in the probate court on behalf of a child accepted into foster care. At the initial hearing on the petition, the court shall determine whether continued placement with the department is in the child's best interests and shall issue its determination, including its rationale, in written form. The allowance of the petition shall not abrogate a parent's right to make decisions on behalf of the child, but the department may accept from the parent a temporary

delegation of certain rights and responsibilities necessary to continue to provide foster care for the child under conditions agreed upon by both and terminable by either. Notwithstanding any general or special law to the contrary, a permanency hearing shall be held within 60 days of the transfer of responsibility by order of the probate court or within 12 months of initial placement into foster care with the department, whichever date is later. The hearing shall be conducted as provided in section 29B.

(2) If a parent or parents apply for voluntary surrender of custody of a child for purposes of giving consent to adoption, the department may accept the child following the procedure described in clause (1).

(3) If a child is without proper guardianship due to death, unavailability, incapacity or unfitness of a parent or guardian or with the consent of a parent or parents, the department may seek, and shall accept, an order of the probate court granting responsibility for the child to the department. Such responsibility shall include the right to: (i) determine the child's abode, medical care and education; (ii) control visits to the child; (iii) consent to enlistments, marriages and other contracts requiring parental consent; and (iv) consent to adoption only when it is expressly included in an order of the court. In making an order, the probate court shall consider section 29C and shall make the written certification and determinations required by said section 29C. If a child is in the care of the department of mental health or the department of mental retardation, the responsibility for the child as described in this section and all rights therein contained shall continue in the department. If a person with mental retardation who has been declared mentally incompetent was the responsibility of the department prior to reaching the age of 18, the department shall continue to exercise responsibility for that person until that person is declared to be no longer legally incompetent.

(4) The department shall accept on commitment from the juvenile court any child declared in need of foster care under section 26 or declared to be a child in need of services under section 39G.

(5) Any child who is left in any place and who is seemingly without a parent or legal guardian available shall be immediately reported to the department, which shall proceed to arrange care for that child temporarily and shall forthwith cause search to be made for that child's parent or guardian. If a parent or guardian cannot be located or is unable or refuses to make suitable provision for the child, the department shall make such lawful provision it deems in the best interest of that child as provided under this chapter.

(6) If the department has in its care a child whose parent or parents have consented to the child's adoption and the department has been unable to place that child in an adoptive home within 60 days of receipt of the consent, the department shall so notify all children's foster care agencies in the commonwealth licensed to place children for adoption. The notice shall request that each such agency attempt to find an adoptive home for such child. If 1 of the agencies locates an adoptive home for this child, the department shall cooperate with the agency in the placement of the child in this home and in the supervision of the placement during the 1 year waiting period. Any person in whose home a child has been placed by the department shall also be informed by the department if the child has become eligible for adoption, and this person may request consideration as a prospective adoptive parent.

(7) A temporary shelter care facility program or a group care facility, licensed under chapter 15D, may provide temporary shelter for a 72-hour period to a child without parental consent, if the child's welfare would be endangered if such shelter were not immediately provided. At the expiration of the 72-hour period, the licensee shall: (i) secure the consent of a parent or guardian to continued custody and care; (ii) refer the child to the department for custody and care; or (iii) refuse to provide continued care and custody to the child.

(b) The department shall develop guidelines and standards for the placement of children in foster care. The guidelines and standards shall be reviewed by the executive office of health and human services and the child advocate.

(c) Whenever the department places a child in foster care, the department shall immediately commence a search to locate any relative of the child or other adult person who has played a significant positive role in that child's life in order to determine whether the child may appropriately be placed with that relative or person if, in the judgment of the department, that placement would be in the best interest of the child.

The department shall also seek to identify any minor sibling or half-sibling of the child and attempt to place these children in the same foster family if, in the judgment of the department, that placement would be in the best interests of the children.

(d) The department may pay a sum not to exceed \$1,100 for the funeral and burial of a child in its care; provided that the cost of the funeral and burial does not exceed \$1,500 and there are insufficient resources to pay for the cost of the funeral and burial. Any resources of the child shall be deducted from the maximum cost of the funeral and

burial allowable hereunder and the difference, subject to the limitation set forth in this subsection, shall be paid by the department.

(e) If a child is placed in or transferred to a foster home, a completed child profile form shall precede or accompany the child to the foster home. In the case of an emergency placement, the department, the department of youth services, the department of mental health, other departments of the commonwealth responsible for the placement of foster children, or a placement agency shall immediately provide a brief verbal or written statement describing the child's outstanding problem behaviors and mental and emotional problems and shall provide the child profile form within 10 days to the foster parents.

The department shall develop a child profile form to be used by all other departments of the commonwealth or placement agencies that shall contain the child profile and any other relevant information necessary to the care, well-being, protection and parenting of the child by the foster parents, including, but not be limited to: (i) a history of the child's previous placements and reasons for placement changes; (ii) a history of the child's problem behaviors and mental and emotional problems; (iii) educational status and school related problem behaviors; and (iv) any other necessary psychological, educational, medical or health information.

The child profile form shall immediately be prepared by the department of the commonwealth which is granted care and custody of the child at the time such care and custody is granted.

(f) The department may continue its responsibility as provided in this section for any person under 22 years of age: (i) for the purposes of specific educational or rehabilitative programs, or (ii) to promote and support that person in fully developing and fulfilling that person's potential to be a participating citizen of the commonwealth under conditions agreed upon by both the department and that person. The purposes and conditions of such responsibility may be reviewed and revised or terminated by either the person or the department. If, after termination, the person requests that the department renew its responsibility therefore, the department shall make every reasonable attempt to provide a program of support which is acceptable to the person and which permits the department to renew its responsibility.

The department shall report annually to the child advocate, chairs of the joint committee on children, families and persons with disabilities and the senate and house committees on ways and means on the numbers of persons it serves and declines to serve under this subsection.

(g) The department shall obtain and provide to the IV-D agency, as set forth in chapter 119A, an assignment of support rights on behalf of each child receiving foster care maintenance payments under Title IV, Part E, of the Social Security Act. The department shall be subrogated to the rights of each such child and shall obtain and provide to the IV-D agency information that may be reasonably necessary to enforce the department's right including, but not limited to, the following information: the child's name, date of birth, place of birth, Social Security number, address and benefit level and, if known, each parent's name, date of birth, place of birth, Social Security number, most recent address and most recent employer. The department shall immediately notify the IV-D agency when a child whose rights to support are subrogated no longer receives foster care maintenance payments under said Title IV, Part E, of the Social Security Act.

(h) The department shall, subject to appropriation, provide assistance to foster care families which includes maintenance payments at the daily rate recommended and periodically adjusted by the United States Department of Agriculture. The department shall periodically review the level of assistance including maintenance payments provided to adoptive and guardianship families and may, subject to appropriation, and consistent with federal law and policy, adjust such assistance as warranted by the financial circumstances of the family, the needs of the child or the rate of inflation.

The department shall report annually on September 1, to the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities on the amounts expended to provide to foster care, adoptive and guardianship families financial and other assistance including, but not limited to, payments to provide for the care of children.

(i) The department, in consultation with the executive office of public safety and security, shall work with the department of state police and municipal police departments to ensure that adequate efforts are being made to identify and to provide for the immediate protection, care and custody of the minor children of a person arrested or placed in custody by police officers in the performance of their official duties.

SECTION 84. Said chapter 119 is hereby further amended by striking out sections 24 to 26A, inclusive, as so appearing, and inserting in place thereof the following 6 sections:—

Section 24. A person may petition under oath the juvenile court alleging on behalf of a child within its jurisdiction that the child: (a) is without necessary and proper physical or educational care and discipline; (b) is growing up under conditions or circumstances damaging to the child's sound character development; (c) lacks proper attention of the parent, guardian with care and custody or custodian; or (d) has a parent, guardian or custodian who is unwilling, incompetent or unavailable to provide any such care, discipline or attention.

The court may issue a precept to bring the child before the court, and shall issue a notice to the department and summonses to both parents of the child to show cause why the child should not be committed to the custody of the department or why any other appropriate order should not be made. A petition under this section may be brought in the judicial district where the child is located or where the parent, guardian with care and custody or custodian is domiciled. The summonses shall include notice that the court may dispense with the right of the parents to notice of or consent to the adoption, custody or guardianship or any other disposition of the child named therein if it finds that the child is in need of care and protection and that the best interests of the child would be served by any such disposition. Notice shall be by personal service upon the parent. If the identity or whereabouts of a parent is unknown, the petitioner shall cause notice in a form prescribed by the court to be served upon such parent by publication once in each of 3 successive weeks in any newspaper as the court may order. If no parent can be found after reasonable search, a summons shall be issued to the child's legal guardian, if any, known to reside within the commonwealth and, if none, to the person with whom such child last resided, if known.

If the court is satisfied after the petitioner testifies under oath that there is reasonable cause to believe that: (i) the child is suffering from serious abuse or neglect or is in immediate danger of serious abuse or neglect; and (ii) that immediate removal of the child is necessary to protect the child from serious abuse or neglect, the court may issue an emergency order transferring custody of the child for up to 72 hours to the department or to a licensed child care agency or individual described in subclause (ii) of clause (2) of subsection (b) of section 26.

Upon entry of the order, notice to appear before the court shall be given to either parents, both parents, a guardian with care and custody or another custodian. At that time, the court shall determine whether temporary custody shall continue beyond 72 hours until a hearing on the merits of the petition for care and protection is concluded before the

court. The court shall also consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C.

Upon the issuance of the precept and order of notice, the court shall appoint a qualified expert to investigate the conditions affecting the child and to make a report under oath to the court, which shall be attached to the petition and be a part of the record.

If the child is alleged to be abandoned, as defined in section 3 of chapter 210, hearings on the petition under section 26 shall be expedited. If the parents or guardians consent, a child may be committed to the department under this section without a hearing or notice.

Section 25. The petition under section 24 may be heard on the merits when a child is taken into custody and brought before the court or may be continued to a time fixed for hearing. Pending the hearing on the merits, the court may allow the child to be placed in the care of some suitable person or licensed agency providing foster care for children or may commit the child to the custody of the department. If the court commits a child to the custody of the department, the court shall consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C.

Section 26. (a) If the child is identified by the court and it appears that the precept and summonses have been duly and legally served, that notice has been issued to the department and the report of the qualified expert is received, the court may excuse the child from the hearing and shall proceed to hear the evidence.

(b) If the court finds the allegations in the petition proved within the meaning of this chapter, it may adjudge that the child is in need of care and protection. In making such adjudication, the health and safety of the child shall be of paramount concern. If the child is adjudged to be in need of care and protection, the court may commit the child to the custody of the department until he becomes an adult or until, in the opinion of the department, the object of his commitment has been accomplished, whichever occurs first; and the court shall consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C. The court also may make any other appropriate order, including conditions and limitations, about the care and custody of the child as may be in the child's best interest including, but not limited to, any 1 or more of the following:

(1) It may permit the child to remain with a parent, guardian or other custodian, and may require supervision as directed by the court for the care and protection of the child.

(2) It may transfer temporary or permanent legal custody to:

(i) any person, including the child's parent, who, after study by a probation officer or other person or agency designated by the court, is found by the court to be qualified to give care to the child;

(ii) any agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child; or

(iii) the department of children and families.

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

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

In determining whether such an order should be made, the standards set forth in section 3 of said chapter 210 concerning an order to dispense with the need for consent to adoption of a child shall be applied. If the child who is the subject of the petition is under the age of 12, and if the court adjudicates the child to be in need of care and protection under this section, the court shall enter an order dispensing with the need for consent to adoption upon finding that the best interests of the child, as defined in paragraph (c) of said section 3 of said chapter 210, will be served thereby. The entry of such an order shall have the effect of terminating the rights of a person named therein to receive notice of or to consent to any legal proceeding affecting the custody, guardianship, adoption or other disposition of the child named therein.

The department shall file a petition or a motion to amend a petition to dispense with parental consent to adoption, custody, guardianship or other disposition of the child if: (i) the child has been abandoned; (ii) the parent has been convicted by a court of competent jurisdiction of the murder or voluntary manslaughter of another child of such parent, of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter or of an assault constituting a felony which resulted in serious bodily injury to the child or to another child of such parent; or (iii) the child has been in foster care in the custody of the state for 15 of the immediately preceding 22 months. Under this paragraph, a child shall be considered to have entered foster care on the earlier of: (a) the date of the first judicial finding, under section 24 or this section, that the child has been subjected to abuse or neglect; or (b) the

date that is 60 days after the date on which the child is removed from the home. The department shall concurrently identify, recruit, process and approve a qualified family for adoption.

The department need not file such a motion or petition to dispense with parental consent to the adoption, custody, guardianship or other disposition of the child if the child is being cared for by a relative or the department has documented in the case plan a compelling reason for determining that such a petition would not be in the best interests of the child or that the family of the child has not been provided, consistent with the time period in the case plan, such services as the department deems necessary for the safe return of the child to the child's home if reasonable efforts as set forth in section 29C are required to be made with respect to the child.

Notwithstanding the foregoing, the following circumstances shall constitute grounds for dispensing with the need for consent to adoption, custody, guardianship or other disposition of the child: (i) the child has been abandoned; or (ii) the parent has been convicted by a court of competent jurisdiction of the murder or voluntary manslaughter of another child of such parent, of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter or of an assault constituting a felony which resulted in serious bodily injury to the child or to another child of the parent.

(5) The court may order the parents or parent of said child to reimburse the commonwealth or other agency for care in appropriate cases.

(c) On any petition filed in any court under this section, the department or the parents, person having legal custody, probation officer or guardian of a child or the counsel or guardian ad litem for a child may petition the court not more than once every 6 months for a review and redetermination of the current needs of such child whose case has come before the court, except that any person against whom a decree to dispense with consent to adoption has been entered under clause (4) of subsection (b) shall not have such right of petition for review and redetermination. Unless the court enters written findings setting forth specific extraordinary circumstances that require continued intervention by the court, the court shall enter a final order of adjudication and permanent disposition, not later than 15 months after the date the case was first filed in court. The date by which a final order of adjudication and permanent disposition shall be entered may be extended once for a period not to exceed 3 months and only if the court makes a written

finding that the parent has made consistent and goal-oriented progress likely to lead to the child's return to the parent's care and custody. Findings in support of such final order of adjudication and permanent disposition shall be made in writing within a reasonable time of the court's order. The court shall not lose jurisdiction over the petition by reason of its failure to enter a final order and the findings in support thereof within the time set forth in this paragraph.

Section 26A. When deciding whether to approve or reject a registration of interest for foster care placement, the department shall conduct a review of any misdemeanor offense discovered through a criminal offender record information search conducted under section 172B of chapter 6 in order to assist the department in accurately evaluating whether the mere existence of the offense has a substantial effect on the applicant's current or future ability to assume and carry out the responsibilities of a foster parent in such a manner that the rights of the child to sound health and normal physical, mental, spiritual and moral development are insured. The review shall include, but not be limited to, a review of the following: (i) the time that has elapsed between the date of the offense and the filing of the registration of interest; (ii) the seriousness and specific circumstances of the offense; (iii) the number and nature of other offenses; (iv) the age of the offender at the time of the offense; (v) the findings and recommendations of the family resource worker assigned by the department to discuss the facts surrounding the misdemeanor with the applicant; (vi) the recommendations given to the family resource worker by personal or employment references chosen by the applicant or received otherwise; (vii) the current and future needs of the child to be placed and the probable effect that the misdemeanor would have on the applicant's ability to fulfill those needs; (viii) any reports or recommendations received by the department from the applicant's parole or probation officer if 1 was assigned; (ix) a copy of the police report pertaining to the offense in question if obtainable within a reasonable period of time or discussions with a police officer familiar with the facts surrounding the offense; and (x) discussions with the child to be placed regarding his current and past relationship with the applicant, unless these discussions are inappropriate. Nothing in this section shall affect the discretion of the department to approve or reject the registration of interest for foster care placement.

Section 26B. (a) Whenever a child is placed in family foster care, the court and the department shall ensure that a grandparent of a child

who is in the department's care or is the subject of a petition under this chapter shall, upon that grandparent's request, have access to reasonable visitation and that the department establish a schedule for that visitation, unless it is determined by the court or the department that grandparent visitation is not in the child's best interests. In determining the best interests of the child, the court or the department shall consider the goal of the service plan and the relationship between the grandparent and the child's parents or legal guardian. Upon recommendation by the department or on its own accord, the court may establish reasonable conditions governing grandparent visitation, including requiring that the grandparent be restrained from revealing the whereabouts of the child's placement.

A grandparent of a child who is placed with the department voluntarily under clause (1) of subsection (a) of section 23 or placed in the custody of the department under an adoption surrender under section 2 of chapter 210, who is denied grandparent visitation by the department, may appeal through the department's fair hearing process. A grandparent may appeal the decision reached through the department's fair hearing process by filing a petition in the probate and family court for grandparent visitation. That grandparent shall have the right to court review by trial de novo.

A grandparent of a child who is the subject of a petition under this chapter and placed in the custody of the department may file a petition for visitation in the court which has committed the child to the custody of the department.

(b) The court or the department shall, whenever reasonable and practical and based upon a determination of the best interests of the child, ensure that children placed in foster care shall have access to and visitation with siblings in other foster or pre-adoptive homes or in the homes of parents or extended family members throughout the period of placement in the care and custody of the department, or after such placements, if the children or their siblings are separated through adoption or long-term or short-term placements in foster care.

The court or the department shall determine, at the time of the initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive or adoptive care, that sibling visitation rights be implemented through a schedule of visitations or supervised visitations, to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, and the child, if

reasonable, and other parties who are relevant to the preservation of sibling relationships and visitation rights.

A child in foster care or sibling of a child placed voluntarily under clause (1) of subsection (a) of section 23 or under an adoption surrender under section 2 of chapter 210, who are denied visitation rights by the department, may appeal through the department's fair hearing process. The child or sibling may appeal the decision reached through the department's fair hearing process by filing a petition in the probate and family court for visitation. That child or sibling shall have the right to court review by trial de novo.

For children in the custody of the department pursuant to petition under this chapter, a child, sibling, parent, legal guardian or the department may file a petition for sibling visitation in the court committing the child to the custody of the department.

Periodic reviews shall evaluate the effectiveness and appropriateness of sibling visitations.

Any child over 12 years of age may request visitation with siblings who have been separated and placed in care or have been adopted in a foster or adoptive home other than where the child resides.

(c) A parent: (i) against whom a decree to dispense with consent to adoption has been entered under clause 4 of subsection (b) of section 26 or section 3 of chapter 210 or (ii) who has signed a voluntary adoption surrender under section 2 of chapter 210 shall not have the rights provided under this section as to the child who is the subject of that decree or surrender.

(d) A child, parent, guardian, grandparent or the department may appeal a decision or order of the trial court to the appeals court under this section if such person or the department is a party thereto. The claim of appeal shall be filed in the office of the clerk or register of the trial court within 30 days following the court's decision or order. Thereafter, the appeal shall be governed by the Massachusetts Rules of Appellate Procedure.

Section 26C. The department shall provide all children's foster care agencies acting as agents of the department and that employ foster care providers, a summary of the record of any such foster care provider's employment as a foster care provider as compiled by the department. Said summary shall include names and contacts of all other agencies that employed such person as a foster care provider, the tenure of each such employment as a foster care provider, the reasons for ending each such employment, and any other information the department deems relevant

and necessary to determine the employee's fitness to continue to be employed as a foster care provider. The department shall require any foster care agency that employs foster care providers and with which it contracts to supply the information included in such summary to the department and maintain this information in a database. The department shall consult the department of early education and care if necessary to facilitate the collection of this information.

SECTION 85. Said chapter 119 is hereby further amended by striking out sections 28 and 29, as so appearing, and inserting in place thereof the following 2 sections:—

Section 28. (a) During the pendency of an action brought under section 24, temporary orders providing for the support of a child may be entered. The court may thereafter enter a judgment against the party chargeable with support. When the court makes an order of support on behalf of a party, and that party is not covered by a private group health insurance plan, the court shall determine whether the person chargeable with support has private health insurance or a group plan available to him through an employer or organization that may be extended to cover the party for whom support is ordered. When the court has determined that the person chargeable with support has this insurance, such court shall include in the order or judgment a provision relating to the insurance. Any such order of support shall conform to and be enforced under section 12 of chapter 119A.

(b) Actions under this section to establish support of a child may be commenced by a parent, whether a minor or not; by the child; by the child's guardian, next of kin or other person standing in a parental relationship to the child; by the authorized agent of the department of children and families or any agency licensed under chapter 15D if the child is in its custody or is or was a recipient of any type of public assistance by the IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance, the department of children and families, the division of medical assistance, or any other public assistance program of the commonwealth. In the event that someone other than the IV-D agency commences the action, if the parent or child is or was a recipient of any type of public assistance, the court shall notify the IV-D agency of the pendency of the action and the IV-D agency shall be permitted to intervene in the action.

(c) An order, or judgment of support under this section, may be entered notwithstanding the default of the person chargeable with support or his failure to appear personally.

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

(e) The person chargeable with support shall comply with this order, or judgment until it is dismissed or expires. When an action brought under section 24 is dismissed or a final order of commitment is entered, the order or judgment of support shall expire 6 months after the judgment of dismissal or final order of commitment. At the time of the dismissal or final order of commitment, the court shall notify the parties and the IV-D agency, as set forth in chapter 119A, of the expiration date of the support order or judgment.

Section 29. Whenever an adult with mental retardation who is the responsibility of the department or a child is before any court under clause (3) of subsection (a) of section 23, or sections 24 to 27, inclusive, this section or section 29B, that adult or child shall have and be informed of the right to counsel at all hearings and that the court shall appoint counsel for that adult or child if the adult or child is not able to retain counsel.

Whenever the department or a licensed child placement agency is a party to child custody proceedings, the parent, guardian or custodian of the adult with mental retardation or the child: (i) shall have and be informed of the right to counsel at all such hearings, including proceedings under sections 5 and 14 of chapter 201, and that the court shall appoint counsel if he is financially unable to retain counsel; and (ii) shall have and be informed of the right to a service plan or case plan for the adult with mental retardation or child and his family which complies with applicable state and federal laws and regulations for these plans. The probate and family court and the juvenile court departments of the trial court shall establish procedures for: (i) notifying the parent, guardian or custodian of these rights; and (ii) appointing counsel for an indigent parent, guardian or custodian within 14 days of a licensed child placement agency filing or appearing as a party in any such action. The department or agency shall provide a copy of the service or case plan to the parent, guardian or custodian of the adult with mental retardation or child and to the attorneys for all parties appearing in the proceeding within 45 days of the department or agency filing an appearance in such

proceeding. Thereafter, any party may have the original or changed plan introduced as evidence, and with the consent of all parties the plan shall be filed with the court. Notwithstanding this section, the court may make such temporary orders as may be necessary to protect the adult with mental retardation or the child and society.

The department, upon its request, shall be represented by the district attorney for the district in which the case is being heard.

SECTION 86. Section 29B of said chapter 119 is hereby amended by striking out the first paragraph, as so appearing, and inserting in place thereof the following paragraph:-

Except as provided herein, within 12 months of the original commitment, grant of custody, or transfer of responsibility of a child to the department by a court of competent jurisdiction, and not less than every 12 months thereafter while the child remains in the care of the department, the committing court shall conduct a permanency hearing, in accordance with rules established by the chief justice for administration and management, to determine and periodically review thereafter the permanency plan for the child. The plan shall address whether and, if applicable, when: (1) the child will be returned to the parent; (2) the child will be placed for adoption and the steps the department will take to free the child for adoption; (3) the child will be referred for legal guardianship; (4) the child will be placed in permanent care with relatives; or (5) the child will be placed in another permanent planned living arrangement. The department shall file a permanency plan prior to a permanency hearing that shall address the above placement alternatives. The court shall consult with the child in an age-appropriate manner about the permanency plan developed for the child.

SECTION 87. Said chapter 119 is hereby further amended by striking out section 29C, as so appearing, and inserting in place thereof the following section:-

Section 29C. If a court of competent jurisdiction commits, grants custody or transfers responsibility for a child to the department or its agent, the court shall certify that the continuation of the child in his home is contrary to his best interests and shall determine whether the department or its agent, as appropriate, has made reasonable efforts prior to the placement of a child with the department to prevent or eliminate the need for removal from the home; but, if a child has been placed voluntarily with the department by the parent under clause (1) of

subsection (a) of section 23 and the parent consents to continued placement under a petition filed under said clause (1) or clause (2) of said subsection (a) of said section 23, the court shall determine at an initial hearing only whether continued placement is in the child's best interests. Except as provided herein, if a court has previously committed, granted custody or transferred responsibility for a child to the department or its agent, the court shall determine not less than annually whether the department or its agent has made reasonable efforts to make it possible for the child to return safely to his parent or guardian. In making any determination, the health and safety of the child shall be of paramount concern.

Reasonable efforts by the department prior to removal of a child from the home or to return the child to a parent or guardian shall not be required if the court finds that: (i) the child has been abandoned as defined in section 3 of chapter 210; (ii) the parent's consent to adoption of a sibling of the child was dispensed with under section 26 or under said section 3 of said chapter 210, or the parent's rights were involuntarily terminated in a case involving a sibling of the child; (iii) the parent has been convicted of 1 of the following crimes by a court of competent jurisdiction: (a) murder or voluntary manslaughter of another child of the parent or aiding, abetting, attempting, conspiring or soliciting to commit such a murder or voluntary manslaughter; or (b) an assault constituting a felony which resulted in serious bodily injury to the child or another child of the parent; or (iv) a parent has subjected the child to aggravated circumstances consisting of murder of another parent of the child in the presence of the child or by subjecting the child or other children in the home to sexual abuse or exploitation or severe or repetitive conduct of a physically or emotionally abusive nature. For the purposes of this section, conduct of an "emotionally abusive nature" shall mean any conduct causing an impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior.

If a court has determined at a permanency hearing convened under section 29B, that reasonable efforts to safely return the child to his parent or guardian are inconsistent with the permanency plan for the child or if a court has determined that reasonable efforts are not required as set forth herein, the court shall determine at least annually thereafter whether the department has made reasonable efforts to place the child in a timely

manner in accordance with the permanency plan determined and reviewed under section 29B.

The court shall make the certification and determinations required under this section in written form, which shall include the basis for the certification and determinations. A determination by the court that reasonable efforts were not made shall not preclude the court from making any appropriate order conducive to the child's best interest.

SECTION 88. Section 32 of said chapter 119, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The department shall insure that every foster child upon entry into the foster care system shall be screened and evaluated under the early and periodic screening, diagnostic and treatment standards established by Title XIX of the Social Security Act, unless the child has been screened and evaluated within 30 days prior to his entry into the system.

SECTION 89. Said chapter 119 is hereby further amended by striking out section 38, as so appearing, and inserting in place thereof the following 2 sections:-

Section 38. All hearings under sections 1 to 38A, inclusive, except those related to court orders to not resuscitate or to withdraw life-sustaining medical treatment for children in the custody of the department under a care and protection order, shall be closed to the general public. It shall be unlawful to publish the names of persons before the court in any closed hearing.

Section 38A. In any proceedings related to court orders to not resuscitate or to withdraw life-sustaining medical treatment, the department or the party petitioning for the order shall require: (i) a written opinion from the child's treating physician, (ii) a written recommendation from the ethics committee of the hospital at which the child is a patient, and (iii) a written second opinion from a physician who is certified in the same medical specialty as the child's treating physician and who is not affiliated with the hospital at which the child is a patient. The department or the party petitioning for the order shall submit these documents to the court. The commissioner shall determine and make the department's recommendation to the court. The court shall also seek a recommendation from the child's parent or guardian. The court shall appoint a guardian ad litem to make a recommendation to the court on

behalf of the child. Any appeal made under this section shall be an interlocutory appeal.

SECTION 90. Section 39½ of said chapter 119, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “of social services”.

SECTION 91. The first sentence of the eighth paragraph of said section 39½ of said chapter 119, as amended by chapter 86 of the acts of 2007, is hereby further amended by striking out the words “of social services”.

SECTION 92. Section 39E of said chapter 119, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 84, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 93. Section 39G of said chapter 119, as so appearing, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 94. Section 39H of said chapter 119, as so appearing, is hereby amended by striking out, in lines 13 and 14, and in line 23, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 95. Said chapter 119 is hereby further amended by striking out section 51A, as so appearing, and inserting in place thereof the following section:-

Section 51A. (a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; or (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect.

If a mandated reporter is a member of the staff of a medical or other public or private institution, school or facility, the mandated reporter may instead notify the person or designated agent in charge of such institution, school or facility who shall become responsible for notifying the department in the manner required by this section.

A mandated reporter may, in addition to filing a report under this section, contact local law enforcement authorities or the child advocate about the suspected abuse or neglect.

(b) For the purpose of reporting under this section, hospital personnel may have photographs taken of the areas of trauma visible on the child without the consent of the child's parents or guardians. These photographs or copies thereof shall be sent to the department with the report.

If hospital personnel collect physical evidence of abuse or neglect of the child, the local district attorney, local law enforcement authorities, and the department shall be immediately notified. The physical evidence shall be processed immediately so that the department may make an informed determination within the time limits in section 51B. If there is a delay in processing, the department shall seek a waiver under subsection (d) of section 51B.

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of abuse or neglect under this section shall be punished by a fine of not more than \$1000.

(d) A report filed under this section shall contain: (i) the names and addresses of the child and the child's parents or other person responsible for the child's care, if known; (ii) the child's age; (iii) the child's sex; (iv) the nature and extent of the child's injuries, abuse, maltreatment or neglect, including any evidence of prior injuries, abuse, maltreatment or neglect; (v) the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; (vi) whatever action, if any, was taken to treat, shelter or otherwise assist the child; (vii) the name of the person or persons making the report; (viii) any other information that the person reporting believes might be helpful in establishing the cause of the injuries; (ix) the identity of the person or persons responsible for the neglect or injuries; and (x) other information required by the department.

(e) A mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the district attorney for the county in which the

death occurred and the office of the chief medical examiner as required by clause (16) of section 3 of chapter 38. Any person who fails to file a report under this subsection shall be punished by a fine of not more than \$1,000.

(f) Any person may file a report under this section if that person has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

(g) No mandated reporter shall be liable in any civil or criminal action for filing a report under this section or for contacting local law enforcement authorities or the child advocate, if the report or contact was made in good faith, was not frivolous, and the reporter did not cause the abuse or neglect. No other person filing a report under this section shall be liable in any civil or criminal action by reason of the report if it was made in good faith and if that person did not perpetrate or inflict the reported abuse or cause the reported neglect. Any person filing a report under this section may be liable in a civil or criminal action if the department or a district attorney determines that the person filing the report may have perpetrated or inflicted the abuse or caused the neglect.

(h) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and attorney's fees.

(i) Within 30 days of receiving a report from a mandated reporter, the department shall notify the mandated reporter, in writing, of its determination of the nature, extent and cause or causes of the injuries to the child and the services that the department intends to provide to the child or the child's family.

(j) Any privilege relating to confidential communications, established by sections 135 to 135B, inclusive, of chapter 112 or by sections 20A and 20B of chapter 233, shall not prohibit the filing of a report under this section or a care and protection petition under section 24, except that a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report suspected

child abuse or neglect under this section when the priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a mandated reporter.

SECTION 96. Section 51A of said chapter 119 is hereby amended by striking out subsection (c), as appearing in section 95, and inserting in place thereof the following subsection:—

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 2½ years and a fine of not more than \$2,000 for the third and subsequent offenses.

Any mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to or death of a child and willfully fails to report such abuse or neglect shall be punished by a fine of up to \$5,000 or imprisonment in the house of correction for not more than 2½ years or by both such fine and imprisonment; and, upon a guilty finding or a continuance without a finding, the court shall notify any appropriate professional licensing authority of the mandated reporter's violation of this paragraph.

SECTION 97. Said section 51A of said chapter 119 of the General Laws, as so appearing, is hereby further amended by adding the following subsection:—

(k) A mandated reporter who is professionally licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect.

SECTION 98. Said chapter 119 is hereby further amended by striking out section 51B, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 51B. (a) Upon receipt of a report filed under section 51A, the department shall investigate the suspected child abuse or neglect, provide a written evaluation of the household of the child, including the parents and home environment and make a written determination relative

to the safety of and risk posed to the child and whether the suspected child abuse or neglect is substantiated.

(b) The investigation shall include: (i) a home visit at which the child is viewed, if appropriate; (ii) a determination of the nature, extent and cause or causes of the injuries; (iii) the identity of the person or persons responsible therefore; (iv) the name, age and condition of other children in the same household; (v) an evaluation of the parents and the home environment; and (vi) all other pertinent facts or matters. The department shall coordinate with other agencies to make all reasonable efforts to minimize the number of interviews of any potential victim of child abuse or neglect. Upon completion of the investigation and evaluation, the department shall make a written determination relative to: (i) the safety of the child and risk of physical or emotional injury to that child and the safety of and risk thereto of any other children in the household; and (ii) whether the suspected child abuse or neglect is substantiated.

(c) If the department has reasonable cause to believe a child's health or safety is in immediate danger from abuse or neglect, the department shall take a child into immediate temporary custody if it has reasonable cause to believe that the removal is necessary to protect the child from abuse or neglect. The investigation and evaluation shall commence within 2 hours of initial contact and an interim report with an initial determination regarding the child's safety and custody shall be completed as soon as possible but not more than 24 hours after initial contact. The final report required under this section shall be complete within 5 business days of initial contact. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition under section 24 on the next court day.

(d) If the department does not have reasonable cause to believe that a child's health or safety is in immediate danger from abuse or neglect, the investigation and evaluation shall commence within 2 business days of initial contact and a determination shall be made within 15 business days, unless a waiver has been approved by the area director or requested by law enforcement.

(e) Notwithstanding subsection (c), whenever the department has reasonable cause to believe that removal is necessary to protect a child from abuse or neglect, it shall take the child into immediate temporary custody. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such

removal and shall file a care and protection petition under section 24 on the next court day.

(f) If a child named in a report filed under section 51A is in an out-of-home placement and the suspected child abuse or neglect is substantiated, the department shall notify his parents that such report was filed and has been substantiated by the department. If the child died or suffered serious bodily injury, the department shall notify the parents, including the biological parents, if the department determines that such notification is in the best interest of the child or of another child in the same placement. The department shall consult with these parents in decisions about removal or further placement. These notifications and consultations shall not be required if the commissioner determines that such notifications or consultations are not appropriate or in the best interests of a child.

(g) The department shall offer appropriate services to the family of any child which it has reasonable cause to believe is suffering from any of the conditions described in the report to prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family life whenever possible. If the family declines or is unable to accept or to participate in the offered services, the department or any person may file a care and protection petition under section 24.

(h) The department shall file in the central registry, established under section 51F, a written report containing information sufficient to identify each child whose name is reported under this section or section 51A. A notation shall be sent to the central registry whenever further reports on each such child are filed with the department. If the department determines during the initial screening period of an investigation that a report filed under section 51A is frivolous, or other absolute determination that abuse or neglect has not taken place, such report shall be declared as “allegation invalid“. If a report is declared “allegation invalid”, the name of the child, or identifying characteristics relating to the child, or the names of his parents or guardian or any other person relevant to the report, shall not be placed in the central registry or in any other computerized program utilized in the department.

(i) The department may purchase and utilize such protective services of private and voluntary agencies as it determines necessary.

(j) The department shall adopt regulations to implement the sections 51A to 51F, inclusive.

(k) The department shall notify and shall transmit copies of substantiated 51A reports and its written evaluations and written

determinations under subsection (a) or (b) to the district attorney for the county in which the child resides and for the county in which the suspected abuse or neglect occurred, and to the local law enforcement authorities in the city or town in which the child resides and in the city or town in which the suspected abuse or neglect occurred when the department has reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect.

The department shall immediately report to the district attorney and local law enforcement authorities listed above when early evidence indicates there is reasonable cause to believe that 1 of the conditions listed below resulted from abuse or neglect:

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

(2) a child has been sexually assaulted, which shall include a violation of section 13B, 13H, 22, 22A, 23, 24 or 24B of chapter 265 or section 35A of chapter 272;

(3) a child has been sexually exploited, which shall include a violation of section 4A, 4B or 29A of said chapter 272; or

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

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

No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F of this chapter relating to confidential data or confidential communications shall prohibit the department from making such notifications or from providing to the district attorney or local law enforcement authorities any information obtained under this section. No person providing notification or information to a district attorney or local law enforcement authorities under this section shall be liable in any civil or criminal action by reason of such action. Nothing herein shall be construed to prevent the department from notifying a district attorney relative to any incident reported to the department under section 51A or to limit the prosecutorial power of a district attorney.

(l) If the department substantiates a report alleging that abuse or neglect occurred at a facility approved, owned, operated or funded, in whole or in part, by the department of elementary and secondary education, the department of early education and care, the department of mental health, the department of mental retardation, the department of public health or the department of youth services, the department shall notify the office of the child advocate and the affected department, in writing, by transmitting a copy of the report filed under section 51A and the department's written evaluation and written determination.

If the department is aware of a licensing violation in any such facility, the department shall immediately notify the affected department.

No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F, or any other provision of law shall prohibit: (i) the department from transmitting copies of reports filed under section 51A or its written evaluations and written determinations to the office of the child advocate or the affected departments; (ii) the department, the office of the child advocate and the affected departments from coordinating activities and sharing information for the purposes of this section or for investigating a licensing violation; or (iii) the department's employees from testifying at administrative hearings held by the affected department in connection with a licensing violation.

(m) Notwithstanding any privilege created by statute or common law relating to confidential communications or any statute prohibiting the disclosure of information but subject to subsection (j) of section 51A, a mandated reporter shall answer questions and provide information posed by the department relating to an investigation conducted under this section, whether or not that person filed the 51A report being investigated. A statutory or common law privilege shall not preclude the admission of any such information in any civil proceeding concerning abuse or neglect of a child, placement or custody of a child.

(n) No person required to provide such information under this section or permitted to disclose information under section 5A of chapter 119A shall be liable in any civil or criminal action for providing such information.

(o) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, provides such information, testifies or is about to testify in any proceeding involving child abuse or neglect unless such person perpetrated or inflicted such abuse or neglect. Any employer who discharges, discriminates or retaliates against such a

person shall be liable to such person for treble damages, costs and attorney's fees.

(p) If the department determines that a 51A report is not substantiated, the department shall notify in writing any and all sources or recipients of information in connection with the investigation that the report of abuse or neglect has not been substantiated, unless the target of the investigation requests that such notification not occur.

(q) The department and the private agencies under contract with it, shall conduct periodic and regular training and education to caseworkers, screeners of 51A reports, and administrators of the department and the agencies regarding their duties and obligations under section 51A and 51B.

(r) There shall be a review by a regional clinical review team when 3 or more 51A reports involving separate incidents have been filed on any child in a family within 3 months and a review by an area clinical review team when 3 or more 51A reports involving separate incidents have been filed on any child in a family within 1 year.

SECTION 99. Said chapter 119 is hereby further amended by striking out section 51D, as so appearing, and inserting in place thereof the following section:—Section 51D. Each area director of the department shall be responsible for implementing subsection (k) of section 51B.

Each area director shall, in cooperation with the appropriate district attorney, establish 1 or more multi-disciplinary service teams to review the provision of services to the children and families who are the subject of 51A reports that meet the conditions of subsection (k).

Each team shall consist of the department's caseworker for the particular case, 1 representative of the appropriate district attorney, and at least 1 other member appointed by the area director who is not an employee of either office. The additional member shall have training and experience in the fields of child welfare or criminal justice and, as far as practicable, be involved with the provision of services to these families. No members of a team shall receive any compensation, or in the case of a state employee, any additional compensation, for service on the team.

The team shall review and monitor the service plan developed by the department under subsection (g) of section 51B. The team shall evaluate the effectiveness of the service plan in protecting the child from further abuse or neglect. The team shall make recommendations regarding

amendments to the service plan, the advisability of prosecuting members of the family, and the possibility of utilizing diversionary alternatives. If the team finds that services required under such plan are not provided to the family, the case shall be referred to the commissioner.

The team shall have full access to the service plan and any personal data known to the department which is directly related to the implementation of the plan, notwithstanding sections 51E and 51F, chapter 66A, and section 135 of chapter 112. The members of the team shall be considered to be employees of the department for purposes of protecting the confidentiality of the data and the data shall be utilized solely to carry out the provisions of this section; provided, however, that the team may report to the district attorney if the family has failed to participate in the plan.

Each area director shall file a monthly report with the commissioner regarding the activities in the area which have occurred in the previous month pursuant to this section. The report shall be written on a form prescribed by the commissioner and shall include, but not be limited to, the number of cases reported under said subsection (k) of said section 51B, the activities of the teams, the availability of services described in the service plans, and the number of family members that are subject of the reports that have been prosecuted. The commissioner, after deleting all personal identifying information, shall combine these area reports into a monthly report that shall be filed with the secretary of health and human services, each district attorney, the joint committee on children, families and persons with disabilities, and the house and senate committees on ways and means.

SECTION 100. Said chapter 119 is hereby further amended by striking out section 51E and 51F, as amended by chapter 3 of the acts of 2008, and inserting in place thereof the following 2 sections:—

Section 51E. The department shall maintain a file of the written reports prepared under this section and sections 51A to 51D, inclusive. These written reports shall be confidential. Upon request and with the approval of the commissioner, copies of written reports of initial investigations may be provided to: (i) the child's parent, guardian, or counsel, (ii) the reporting person or agency, (iii) the appropriate review board, (iv) a child welfare agency of another state for the purpose of assisting that agency in determining whether to approve a prospective foster or adoptive parent, or (v) a social worker assigned to the case. No such report shall be made available to any persons other than those

specified in this section without the written and informed consent of the child's parent or guardian, the written approval of the commissioner, or an order of a court of competent jurisdiction. Pursuant to chapter 18C, the child advocate shall have access to these reports.

A child welfare agency of another state may, upon request, and upon the approval of the commissioner, receive a copy of the written report of the initial investigation if the agency has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect.

The name and all other identifying information relating to any child, or to his parents or guardian, shall be removed from said reports 1 year after the department determines that the allegation of serious physical or emotional injury resulting from abuse or neglect cannot be substantiated, or, if said allegations are substantiated, when the child reaches the age of 18, or 1 year after the date of termination of services to the child or his family, whichever date occurs last; provided, however, that the department may retain information on unsubstantiated reports to assist in future risk and safety assessments of children and families and may release said information to the child welfare agencies of other states upon request of said child welfare agency for the purpose of assisting said child welfare agency in determining whether to approve a prospective foster or adoptive parent.

Any person who permits any information in the files to be released to persons other than those specified in this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2½ years, or both.

Section 51F. The department shall maintain a central registry of information sufficient to identify children whose names are reported under sections 51A to 51B. Data and information relating to individual cases in the central registry shall be confidential and shall be made available only with the approval of the commissioner or upon court order; provided, however, that the department, upon request, may release this data and information to a child welfare agency of another state for the purpose of assisting that agency in determining whether to approve a prospective foster or adoptive parent. The commissioner shall establish rules and regulations governing the availability of such data and information. Pursuant to chapter 18C, the child advocate shall have access to the information in the registry.

A child welfare agency of another state may, upon request, and upon the approval of the commissioner, receive information from the central

registry if the agency has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect.

The name and all other identifying characteristics relating to any child which is contained in the central registry, or to his parents or guardian, shall be removed 1 year after the department determines, after investigation, that the allegation of serious physical or emotional injury resulting from abuse or neglect cannot be substantiated or, if said allegations are substantiated, when the child reaches the age of 18, or 1 year after the date of termination of services to the child or his family, whichever date occurs last. If the department determines during the initial screening period of an investigation that said report under section 51A is frivolous, or other absolute determination that abuse or neglect has not taken place, then said report shall be declared as “allegation invalid”. If such reports are declared “allegation invalid”, the name of the child, or identifying characteristics relating to the child, or the names of his parents or guardian or any other person relevant to the report, shall not be placed in the central registry, nor under any other computerized program utilized in the department. Nothing in this section shall prevent the department from keeping information on unsubstantiated reports to assist in future risk and safety assessments of children and families.

Any person employed in the central registry who permits the data and information stored in the registry to be released without authorization to persons other than those specified in the rules and regulations shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2½ years, or both.

SECTION 101. Said chapter 119 is hereby further amended by inserting after section 51G the following section:-

Section 51H. Notwithstanding any general or special law to the contrary, the department may send to, or receive from, any other state or country a protective alert containing any information about a child related to a substantiated report of child abuse or neglect if the department reasonably believes that the child has been or will be transported to another state or country.

SECTION 102. Said chapter 119 is hereby further amended by inserting after section 63 the following section:-

Section 63A. Whoever is 19 years of age or older and: (i) knowingly and willfully aids or abets a child under the age of 17, or under the age of

18 and in state custody, to violate an order of a juvenile court; or (ii) knowingly and willfully conceals or harbors a child who has taken flight from the custody of the court, a parent, a legal guardian, the department of children and families or the department of youth services shall be punished by a fine of not more than \$500 or by imprisonment in the house of correction for not more than 1 year, or by both such fine and imprisonment.

It shall be a defense to a violation of clause (ii) if the defendant concealed or harbored a child in the reasonable good faith belief that the child would be at risk of physical or sexual abuse if the child returned to his custodial residence, unless the defendant concealed or harbored such child with intent to abuse the child or if the defendant committed abuse on that child.

The court may release on probation under section 87 of chapter 276, subject to such orders as it may make as to future conduct tending to cause, induce or contribute to a person's status as a child in need of services or delinquency, or it may suspend sentence under section 1 of chapter 279, or before trial, with the defendant's consent, it may allow the defendant to enter into a recognizance, in such penal sum as the court may fix, conditioned to comply with such terms as the court may order for the promotion of the future welfare of the child, and the case may then be placed on file. The provisions for recognizance in section 56 of chapter 276 shall be applicable to cases arising hereunder.

The divisions of the juvenile court department shall, within their respective territorial limits, have exclusive jurisdiction over complaints alleging a violation of this section.

SECTION 103. Section 2 of chapter 119A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 21 and in lines 35 and 36, the words "social services" and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 104. Section 3 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 2, the words "social services" and inserting in place thereof the following words:- children and families.

SECTION 105. Section 5 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 23, the words "social services"

and inserting in place thereof, in each instance the following words:- children and families.

SECTION 106. Section 5A of said chapter 119A, as so appearing, is hereby amended by striking out, in lines 26, 27 and 84, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 107. Section 2 of chapter 201 of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 108. Section 6B of said chapter 201, as so appearing, is hereby amended by adding the following 2 sentences:- The court shall not appoint as guardian any person petitioning for guardianship who: (i) is currently being investigated or has charges pending for committing an assault and battery that resulted in serious bodily injury to the incapacitated or ill person; or (ii) is currently being investigated or has charges pending for neglect of the incapacitated or ill person. The court shall terminate a guardianship appointed under this section if, upon petition, it is established that the guardian is: (i) currently being investigated or has charges pending for committing an assault and battery that resulted in serious bodily injury to the incapacitated or ill person; or (ii) is currently being investigated or has charges pending for neglect of the incapacitated or ill person.

SECTION 109. Section 32F of chapter 209 of the General Laws, as so appearing, is hereby amended by striking out, in lines 17, 28 and 29 and 42, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 110. Section 5 of chapter 209C of the General Laws, as so appearing, is hereby amended by striking out, in lines 9, 13 and 14 and in line 54, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 111. Section 8 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 17, the words “social services”

and inserting in place thereof the following words:- children and families.

SECTION 112. Section 9 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 67, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 113. Section 11 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 36, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 114. Section 13 of said chapter 209C, as so appearing, is hereby amended by striking out, in lines 9, 13 and 15 the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 115. Section 16 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 44, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 116. Section 1 of chapter 210 of the General Laws, as so appearing, is hereby amended by inserting after the word “separation”, in line 13, the following words:- , prolonged separation.

SECTION 117. Section 2 of said chapter 210, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 118. Section 2A of said chapter 210, as so appearing, is hereby amended by striking out, in lines 5 and 14, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 119. Section 3 of said chapter 210, as so appearing, is hereby amended by striking out, in lines 7 and 55, the words “social

services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 120. Section 4 of said chapter 210, as so appearing, is hereby amended by striking out, in line 13, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 121. Section 4A of said chapter 210, as so appearing, is hereby amended by striking out, in line 11, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 122. Section 5A of said chapter 210, as so appearing, is hereby amended by striking out, in lines 2 and 3, 39 and 40 and in line 52, the words “social services” and inserting in place thereof, in each instance, the following words:- children and families.

SECTION 123. Section 5E of said chapter 210, as so appearing, is hereby amended by striking out, in line 1, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 124. Section 6 of said chapter 210, as so appearing, is hereby amended by striking out, in line 21, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 125. Section 6C of said chapter 210, as so appearing, is hereby amended by striking out, in lines 35 and 36, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 126. Section 11A of said chapter 210, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 127. Section 5 of chapter 258C of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 and 14, the

words “departments of social services and public welfare” and inserting in place thereof the following words:- department of children and families and the department of transitional assistance.

SECTION 128. Section 3 of chapter 273 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 129. Section 18A of said chapter 273, as so appearing, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 130. The initial appointments for members of the commission on the status of grandparents raising grandchildren established by section 69 of chapter 3 of the General Laws shall be made on or before March 1, 2009.

SECTION 131. The policies and procedures relative to minors whose parents or guardians are arrested or placed in custody by police officers required by clause (9) of section 18<sup>3</sup>/<sub>4</sub> of chapter 6A of the General Laws shall developed on or before December 31, 2008.

SECTION 132. Notwithstanding section 3 of chapter 18C of the General Laws, the child advocate appointed under Executive Order No. 494 shall continue to serve in that capacity at the pleasure of the governor.

SECTION 133. Notwithstanding section 10 of chapter 18C of the General Laws, the first annual report filed by the child advocate under said section 10 of said chapter 18C shall be filed on or before June 30, 2009.

SECTION 134. Notwithstanding subsection (c) of section 11 of chapter 18C of the General Laws, the first comprehensive plan filed by the child advocate under said section 11 of said chapter 18C shall be filed on or before June 30, 2010.

SECTION 135. (a) Notwithstanding section 51B of chapter 119 of the General Laws or any other general or special law to the contrary and consistent with any relevant collective bargaining agreement, the department of children and families may establish a pilot program of family engagement in child welfare practice. The department shall select 4 to 8 area offices in which to implement the pilot program. Each office shall then be divided into a control group and a differential response group, with each group using social worker teams based on caseload standards recommended by the Child Welfare League of America, Inc.

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

Upon entry of any such request, referral or report, the department shall have a period of initial engagement during which the request, referral or report shall be evaluated and a differential response, if any, shall be determined; but if the department has reasonable cause to believe the child's health or safety is in immediate danger from abuse or neglect, the department shall also view the child, conduct a safety assessment, and take any steps necessary to ensure the safety of the child. A rapid initial engagement for the latter circumstances shall commence within 2 hours and shall be completed within 36 hours; all other initial engagements shall be completed within 3 business days. The department shall determine whether the request, referral or report is appropriate for response and, if so, which differential response is appropriate: a protective response, a support and stabilization response or a community resource response.

A protective response shall be required if the department determines that the child has been or is at risk of serious harm. The protective response shall be conducted pursuant to said section 51B, except that the investigation shall be completed within 15 business days of the differential response determination unless a waiver has been approved by the area director or requested by law enforcement.

A support and stabilization response shall require department contact with the child's family within 2 business days of the differential response determination and an initial assessment of the family within 30 business days of the determination. Such a response shall include at least 3

department visits with the child's family and may include the immediate provision of services.

A community resource response shall consist of providing information about and referral to community-based services. Such a response shall not include an investigation or a family assessment by the department.

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

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

(c) The pilot program shall include an independent evaluation, including the impact on children and families, the effect on racial disproportionality and disparity, the associated costs, any recommendations for statewide implementation, and shall survey children, families, and staff involved with the pilot program.

(d) The department shall report the results of the evaluation and legislative recommendations, if appropriate, no later than 1 year after pilot program is established. The report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the speaker of the house, the president of the senate and the governor.

SECTION 136. The name of the department of social services is hereby changed to the department of children and families.

SECTION 137. Section 22 shall take effect on July 1, 2008.

SECTION 138. Section 97 shall take effect on January 1, 2010.

SECTION 139. Section 96 shall take effect on July 1, 2010.