

By Ms. Graham of Cambridge, petition of Sandra Graham and Barbara E. Gray for legislation relative to foster care for children. Human Services and Elderly Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT PERTAINING TO THE PROVISION OF FOSTER CARE FOR CHILDREN.

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

1 Section 23 of chapter 119 of the General Laws as most recently  
2 amended by chapter 276 of the Acts of 1975, is hereby further  
3 amended by striking out said section and inserting in place thereof  
4 the following new section:—

5 “Foster care” means substitute care provided to a child by a  
6 person, family or facility other than the child’s parent or legal  
7 guardian.

8 The department shall have the responsibility, including financial  
9 responsibility, for providing foster care for children through its  
10 own resources or by use of appropriate voluntary agencies  
11 according to the rules and regulations of the department in the  
12 following instances:

13 A. Upon the written application of a parent or guardian the  
14 department may accept for foster care any child under eighteen  
15 years of age who is in need of substitute parental care and for  
16 whom, in the judgment of the department, no alternative to  
17 placement with the department or a licensed child care agency is  
18 reasonably available.

19 The written application shall contain the entire agreement  
20 between the parties. Said agreement shall be terminable by either  
21 party. The consent of both parties shall be required to vary the  
22 terms of the agreement in any matter. The application shall be  
23 signed by an agent of the department and the parent or guardian. A  
24 signed copy of said application must be provided to the parent or  
25 guardian of the child if the child is accepted for foster care.

26 The written application shall specify the length of time for which  
27 foster care will be provided, the responsibilities of the parent or  
28 guardian while the child remains in foster care including but not  
29 limited to financial support of the child if required, visitation with  
30 the child, contacts with the agency, and consent to medical  
31 treatment for the child if necessary. The application shall also  
32 advise the parents or guardian of their rights to up-to-date oral  
33 and/or written reports on the child while in foster care including  
34 reports of the physical, mental and emotional health of the child,  
35 educational progress reports and reports of the child's adjustment  
36 to foster care. The parent(s) of guardian shall have the right to visit  
37 with the child on a regular basis and the department shall have the  
38 responsibility of placing the child in a foster home or group care  
39 facility convenient to the parent if such home or facility is available  
40 and suitable for the child. The department shall have the obligation  
41 of providing case work services or other appropriate social services  
42 to families of children placed in foster care.

43 The application shall advise the parent or guardian that  
44 notwithstanding the fact that the application for foster care is  
45 terminable by either party the department has the right to:

46 1. terminate the voluntary agreement and seek the legal custody  
47 of the child in accordance with the law and

48 2. the department may petition a probate court to dispense with  
49 the consent of a parent to the adoption of a child in the care of the  
50 department or a licensed child care agency.

51 B. The department may provide foster care to any child surren-  
52 dered to the department for purposes of adoption. If the depart-  
53 ment has in its care a child whose parent or parents have consent-  
54 ed to his adoption and the department has been unable to place  
55 such child in an adoptive home within sixty days of the receipt  
56 of such consent, it shall so notify all children's foster care agencies  
57 in the Commonwealth licensed to place children for adoption. Said  
58 notice shall request that each such agency attempt to find an  
59 adoptive home for such child. If one of said agencies locates an  
60 adoptive home for such child the department shall cooperate with  
61 such agency in the placement during the six month waiting period.  
62 Any person in whose home such child has been placed by the  
63 division shall also be informed by the department if such child has

64 become eligible for adoption, and such person may request  
65 consideration as a prospective adoptive parent.

66 C. The department may seek and shall accept on order of a  
67 probate court the responsibility for any child under eighteen years  
68 of age who is without proper guardianship due to the death,  
69 unavailability, incapacity or unfitness of the parent or guardian, or  
70 on the consent of the parent or parents. Such responsibility shall  
71 include the right to determine the child's place of abode, medical  
72 care, and education; to control visits to the child; to give consents  
73 to enlistments, marriages and other contracts requiring parental  
74 consent, such responsibility to include the right to consent to  
75 adoption only when it is expressly included in the order of the  
76 court. If such child is in the care of the department of mental  
77 health, the responsibility enumerated above and all rights therein  
78 contained shall continue in the department. The department shall  
79 continue to have such responsibility for a mentally retarded person  
80 notwithstanding the fact that such person has reached the age of  
81 eighteen years, if the department has accepted responsibility for  
82 such person prior to his reaching the age of eighteen years and such  
83 person has been declared to be legally incompetent. Such  
84 responsibility shall continue in the department until such person  
85 shall be declared to be no longer legally incompetent.

86 D. The department shall accept on commitment from the  
87 Boston juvenile court, the Worcester juvenile court, the Bristol  
88 county juvenile court and the Springfield juvenile court and from  
89 any juvenile session of a district court of the commonwealth or  
90 from any superior civil court of the commonwealth any child under  
91 eighteen years of age declared in need of foster care under section  
92 twenty-six or to be a child in need of services under section thirty-  
93 nine G.

94 E. Any child under eighteen who is left in any place who is  
95 seemingly without parent or legal guardian available shall be  
96 immediately reported to the department, which shall proceed to  
97 arrange care for such child temporarily and shall forthwith cause  
98 search to be made for parent or guardian. If parent or guardian  
99 cannot be found or is unable or refuses to make suitable provision  
100 for the child the department may seek custody of the child in  
101 accordance with the provisions of this chapter.

102 G. A temporary shelter care facility program or a group care  
103 facility, licensed under the provisions of chapter twenty-eight A,  
104 may, for a seventy-two hour period, provide temporary shelter to a  
105 child under eighteen without parental consent, provided that the  
106 child's welfare would be endangered if such shelter were not  
107 immediately provided. At the expiration of such seventy-two hour  
108 period, the licensee shall (1) secure the consent of parent or  
109 guardian to continued custody and care, (2) refer the child to the  
110 department for custody and care, or (3) refuse to provide  
111 continued care and custody to said child.

112 The department may continue to have the responsibility for any  
113 person provided for in this section under twenty-one years for the  
114 purposes of specific educational or rehabilitative programs, under  
115 conditions agreed upon by both the department and such person  
116 and terminable by either.