

**SENATE . . . . . No. 651**

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By Mr. Fitzpatrick, a petition (accompanied by bill, Senate, No. 651) of John H. Fitzpatrick for legislation to mandate the establishment of a child protection consultation and advisory board in Berkshire County. Human Services and Elderly Affairs.

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**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty.

**AN ACT MANDATING THE ESTABLISHMENT OF A CHILD PROTECTION CONSULTATION AND ADVISORY BOARD IN BERKSHIRE COUNTY.**

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

1 SECTION 1. The following words and phrases when used in  
2 sections two and three of this act, shall, unless the context  
3 otherwise requires be construed as follows:

4 "Commissioner", shall mean the commissioner of public  
5 welfare;

6 "Department", shall mean the department of public welfare.

1 SECTION 2. The commissioner shall establish in Berkshire  
2 County a Child Protection Consultation Advisory Board. The  
3 board shall be composed of five members who shall be ap-  
4 pointed by the commissioner in consultation with the Berk-  
5 shire County Council for Children. Not more than one mem-  
6 ber of the board shall be an employee of the department.

7 The board shall receive, within a reasonable time after a  
8 case of a child who resides in Berkshire County is initially  
9 reported pursuant to section fifty-one A of chapter one hun-  
10 dred and nineteen of the General Laws, a written report  
11 summarizing the findings and recommendations of each case  
12 in which no court action has been taken.

13 Upon receipt of the written report the board shall make a  
14 recommendation for departmental action and shall communi-  
15 cate such recommendation to the commissioner. In forming  
16 such recommendation the board may request further infor-

17 mation on the case and may call before it any person who has  
18 been involved in the case and evaluation which is being re-  
19 viewed.

20 The board may request, and shall receive, within a reason-  
21 able time after such request, periodic written reports sum-  
22 marizing any further findings or recommendations made, any  
23 action taken or any protective or other services provided in  
24 any case reported to the board pursuant to this section in  
25 which no court action has been taken. The board may also  
26 request, and shall receive, within a reasonable time after a  
27 case of a child who resides in Berkshire County is initially re-  
28 ported pursuant to section fifty-one A of chapter one hundred  
29 and nineteen of the General Laws and in which court action  
30 has been taken, periodic written reports, including copies of  
31 any court order, summarizing any action taken or any pro-  
32 tective or other service provided in said cases.

33 Upon receipt of said periodic written reports the board may  
34 make a recommendation for departmental action and shall  
35 communicate any such recommendation to the commissioner.  
36 In forming such recommendation the board may request fur-  
37 ther information on the case and may call before it any per-  
38 son who has been involved in the case and evaluation which  
39 is being reviewed.

40 The board shall give precedence to cases of children suffer-  
41 ing extreme physical or emotional injury resulting from abuse  
42 inflicted upon a child including sexual abuse, or from neglect,  
43 including malnutrition or who is determined to be physically  
44 dependent upon an addictive drug at birth in which no court  
45 action or change in custody is recommended. The board shall  
46 next review cases in which a party to the proceedings, or any  
47 person required to report under section fifty-one A of chap-  
48 ter one hundred and nineteen of the General Laws requests  
49 such a review. Other cases in which protective services are  
50 offered shall be reviewed in order of their receipt.

51 Members of the board shall serve without compensation,  
52 but if they are public employees, shall be relieved from their  
53 formal duties during times when they are performing the  
54 duties specified in this section. Members of the board shall  
55 be reimbursed by the department for any expenses neces-

56 sarily incurred in the performance of their duties.

57 Nothing in this section shall permit the board to review  
58 decisions of a court of competent jurisdiction.

1 SECTION 3. The board shall maintain a file of the written  
2 reports and any other written data or information connected  
3 with said written reports submitted by or to the board pur-  
4 suant to section two. The department shall maintain a file  
5 of the written reports and any other data or information  
6 connected with said written reports submitted by or to the  
7 department pursuant to section two. Such written reports,  
8 data and information shall be confidential. The child's parent,  
9 guardian, or counsel, the reporting person or agency, or a  
10 social worker assigned to the case, may, upon request and  
11 upon the approval of the commissioner, receive a copy of the  
12 written report of the investigation. No written reports shall  
13 be made available to any persons other than those enumer-  
14 ated in this section without the written and informed consent  
15 of the child's parent or guardian and the written approval of  
16 the commissioner, or any order of a court of competent juris-  
17 diction. No data or information shall be released to any per-  
18 sons, including those enumerated in this section, except upon  
19 an order of a court of competent jurisdiction.

20 Notwithstanding the preceding paragraph, written reports,  
21 and information containing medical or psychiatric infor-  
22 mation about an individual may be made available to a physi-  
23 cian treating said individual, upon the request of said  
24 physician, if a medical or psychiatric emergency arises which  
25 precludes obtaining the consent and approval required by this  
26 section or an order of a court of competent jurisdiction.

27 The name and all other identifying information relating to  
28 any child, or to the parents or guardian of said child, shall be  
29 removed from said written reports, data and information  
30 ninety (90) days after the department determines that the  
31 allegation of serious physical or emotional injury resulting  
32 from abuse or neglect, cannot be substantiated, unless the  
33 board files a written report with the commissioner within  
34 ninety (90) days after said department determination, which  
35 makes a finding that said allegations can be substantiated,

36 in which case, said identifying information shall be removed  
37 ninety (90) days after the commissioner determines that  
38 said allegations cannot be substantiated. If said allegations  
39 are substantiated, the name and all other identifying infor-  
40 mation relating to any child, or the parents or guardian of  
41 said child, shall be removed when the child reaches the age  
42 of eighteen (18), or one year after the date of termination  
43 of protective or other services to the child or the family,  
44 whichever date occurs last.

45 A member of the board, or an employee of the department  
46 to whom written reports, data or information are provided,  
47 who permits said written report, data or information to be  
48 released without the authorization required by this section  
49 to any person or agency, public or private, shall be punished  
50 by a fine of not more than one thousand dollars or by im-  
51 prisonment for not more than two and one-half years or both.