

SENATE No. 651

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.

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.