SENATE . . . . . No. 700

By Mr. Walsh, a petition (accompanied by bill, Senate, No. 700) of Joseph B. Walsh for legislation relative to review of child placements. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT RELATIVE TO REVIEW OF CHILD PLACEMENTS.

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. Section 1 of chapter 28A of the General Laws is hereby amended by adding the following words to the end of the third sentence: —

and to afford every child placed outside of his home with the opportunity for eventual return to his home or placement in an alternative permanent home.

SECTION 2. Section 1 of chapter 28A of the General Laws is hereby further amended by striking out the clause numbered (6) and inserting in place thereof the following two clauses: —

(6) to establish the administrative framework for the administrative and judicial review of the social service plan for any child placed outside of his home in order to ensure that such plan and placement serve the best interests of the child; and

(7) to assure that every child in all circumstances be protected against all forms of neglect, cruelty, abuse and exploitation.

SECTION 3. Chapter 28A of the General Laws is hereby further amended by inserting after section 16 the following sections: —

Section 17. The Director of the Office for Children shall appoint members to foster care review panels. The director shall appoint members to at least one panel for each county in the Commonwealth.

Section 18. Each panel shall consist of five members, at least one of whom shall have a degree in a human service related field, at least one of whom shall have had professional experience with children in an educational, counselling or custodial capacity, and at least one of whom shall be a parent.

Section 19. The director may, in his discretion, from time to time, assign any member duly appointed to one panel to sit on any other panel.

Section 20. Each member shall be appointed for a term of three years except that approximately one-third of the members appointed in the first year shall be appointed for a term of one year and approximately one-third of the members appointed in the first year shall be appointed for a term of two years. Members shall continue to serve until a successor is appointed. In the event a vacancy occurs on a panel, the director may appoint a member to serve the unexpired portion of the term.

Section 21. The Office for Children shall establish rules and regulations relative to the training of panel members and the implementation of the statutory purpose of the foster care review panels.

SECTION 4. Section 1 of chapter 119 of the General Laws is hereby amended by adding the following words to the end of the last sentence of the first paragraph: —

and to afford every child placed in substitute care with the opportunity for eventual return to his family or placement in an alternative permanent home.

SECTION 5. Chapter 119 of the General Laws is hereby further amended by inserting after section 1 the following sections: —

Section 2. The following words and phrases when used in sections three to five shall, unless the context otherwise requires, be construed as follows: —

"Department," the department of social services.

"Foster, group or residential placement." The definitions contained in section 9 of chapter 28A for the words "family foster care" and "group care facility" shall apply to these

11 terms and any terms using the words "foster," "group" or
12 "residential."
13 "Child," a person below the age of eighteen.
14 "Placement agency." The definition contained in section 9
15 of chapter 28A shall apply.
16 *Section 3.* The Department or any licensed placement
17 agency placing a child or receiving a child for foster, group
18 or residential placement shall within six weeks of receiving
19 such child develop an appropriate plan for the permanent
20 placement of the child. The plan shall contain at least the
21 following: —
22 (1) the purpose for which the child has been placed in
23 care;
24 (2) the anticipated length of time in which the purpose of
25 the placement may be accomplished;
26 (3) the description of the services which are to be provided
27 in order for the purpose of the placement to be accomplished;
28 (4) the person within the Department or agency who is
29 directly responsible for assuring that the plan is implemented.
30 This plan shall be reviewed at a supervisory level within the
31 Department or agency every six months. All progress in com-
32 pliance with the plan shall be noted on the plan.
33 *Section 4.*
34 a. The Department or any licensed placement agency hav-
35 ing care, custody or guardianship with custody of a child who
36 resides in a foster home or group care facility shall, when
37 such child has resided in said home or facility for a period of
38 six months, twelve months, and eighteen months, forward to
39 a foster care review panel for the county in which, in the case
40 of a licensed placement agency, its principal office is located
41 or, in the case of the Department, its office responsible for
42 the child's case is located, a copy of such child's plan as re-
43 quired by §3 of this chapter. The plan shall be mailed to the
44 panel within one week of the completion of the sixth, twelfth
45 and eighteenth month of such residence.
46 b. Following receipt of a plan forwarded in accordance
47 with section 4.a., after the sixth or twelfth month of place-
48 ment, the members of the foster care review panel shall as-
49 sume that the facts recited in the plan are true and shall de-

50 termine by vote whether or not the plan and any progress
51 noted thereon is suitable and in the best interests of the
52 child.
53 c. If, after consideration of a plan forwarded in accordance
54 with section 4.a. the panel determines that more information
55 must be included in the plan before the panel can determine
56 its suitability, then the panel shall return the plan to the for-
57 warding Department or agency with a request for further in-
58 formation.
59 d. Upon receipt of a request for further information sent
60 in accordance with section 4.c., the forwarding Department or
61 agency shall within ten working days attach the additional
62 information specified in the request to the plan and mail it
63 back to the panel which made the request.
64 e. Following receipt of a plan and further information for-
65 warded in accordance with section 4.d., the members of the
66 panel shall assume the facts recited in the plan and informa-
67 tion attached are true and shall determine by vote whether
68 or not the plan is suitable and in the best interests of the
69 child. If, after consideration of additional information for-
70 warded in accordance with section 4.d., a member of a panel
71 believes that more information must be included in the plan
72 before he can determine its suitability, then such member
73 shall vote that the plan is not suitable.
74 f. If a panel votes in accordance with section 4.b. or 4.e.
75 that a plan is suitable and in the best interests of the child,
76 then it shall so note on the plan and no further action need
77 then be taken on the plan by the panel.
78 g. If a panel votes in accordance with section 4.b. or 4.e.
79 that a plan is not suitable, and no custody or guardianship
80 petition is already pending in a Probate Court in the Com-
81 monwealth, then it shall send a letter to the forwarding De-
82 partment or agency directing it to file a petition pursuant to
83 sections 2 and 5 of chapter 201, or section 23C of chapter 119,
84 or section 3 of chapter 210, in the Probate Court for the
85 county specified in section 4.a. within two weeks of the re-
86 ceipt of the letter. A copy of the letter shall be mailed to the
87 Register of Probate for that county.
88 h. If a panel votes in accordance with section 4.b. or 4.e.

that a plan is not suitable, and a custody or guardianship petition is already pending or has already been allowed in a Probate Court in the Commonwealth, then it shall send a letter to the forwarding Department or agency directing it to file a motion for a review of placement in the existing probate custody or guardianship case. A copy of the letter shall be mailed to the Register of Probate for the court in which the case was filed or allowed.

i. Following receipt of a plan forwarded in accordance with section 4.a. after the eighteenth month of placement, the panel shall send to the forwarding department or agency the letter required by section 4.g. or 4.h.

j. Upon receipt of a letter sent in accordance with section 4.g., 4.h., or 4.i., the Department or agency shall within two weeks of receipt of the letter file a petition or motion in the Probate Court as specified in the letter.

k. This section shall not apply to any child for whom a petition pursuant to section 3.b. of chapter 210 has already been filed.

1. A child shall be deemed to have resided in a foster home or group care facility for six, twelve or eighteen months if the child shall have lived continuously in any number or combination of such homes or facilities for a total of six, twelve or eighteen months without an interruption of more than two months.

Section 5. A majority of the members present may decide any vote required by section 4.b. or 4.e., provided that at least three members of the panel are present and voting. A tie vote shall be deeemed a determination that the plan is not suitable.

SECTION 6. This act shall apply to all children who enter placement in a foster home or a group care facility on or after the date this act first takes effect.

SECTION 7. The Office for Children shall establish regulations consistent with the legislative intent of this act to review the placement of children who are already residing in a foster home or group care facility on the date this act first takes effect.