

SENATE No. 1827

The Commonwealth of Massachusetts

SENATE, April 8, 1982.

The Senate committee on Ways and Means, to whom was referred the petition (accompanied by bill, Senate, No. 695) of Joseph B. Walsh for legislation relative to review of placement of children, reports the accompanying bill (Senate, No. 1827).

For the Committee,

CHESTER G. ATKINS

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-two.

AN ACT RELATIVE TO REVIEW OF CHILD PLACEMENTS.

Court assembled, and by the authority of the same, as follows:

Be it enacted by the Senate and House of Representatives in General

1 SECTION 1. Section 1 of chapter 28A of the General Laws,
2 as appearing in section 1 of chapter 785 of the acts of 1972, is
3 hereby amended by striking out the third sentence of the first
4 paragraph and inserting in place thereof the following sen-
5 tence: — In the absence or inability of parents to provide care
6 and protection for their children, it shall be the responsibility
7 of the commonwealth to assure substitute residential care and
8 protection for every child and to afford every child placed out-
9 side his home with the opportunity for eventual return to his
10 home or placement in an alternative permanent home.

1 SECTION 2. Chapter 217 of the General Laws is hereby
2 amended by inserting after section 8A the following sec-
3 tion: —

4 *Section 8B.* The administrative justice shall establish foster
5 care review panels in each county. Each panel shall consist
6 of five members appointed by the administrative justice, one
7 of whom shall have a degree in a human service related field,
8 one of whom shall have had professional experience with chil-
9 dren in an educational, counselling or custodial capacity, and
10 one of whom shall be a parent. The administrative justice
11 may, in his discretion, from time to time, assign any member
12 duly appointed to one panel to serve on another panel. Each
13 member shall be appointed for a term of three years and shall
14 continue to serve until a successor is appointed. Any member
15 shall be eligible for reappointment. In making initial appoint-
16 ments to each of said panels, the administrative justice shall
17 appoint two members for terms of one year, two members for
18 terms of two years and one member for a term of four years.
19 Upon the expiration of the term of any such member, his suc-
20 cessor shall be appointed for a term of three years. Persons

21 appointed to fill vacancies shall serve for the unexpired term
22 of said vacancy.

23 The administrative justice shall establish rules and regula-
24 tions relative to the training of panel members.

25 A quorum of three members shall be necessary to conduct
26 a review of a plan submitted pursuant to section twenty C of
27 chapter one hundred and nineteen. A tie vote on any such plan
28 shall be deemed a determination that said plan is not suitable.

1 SECTION 3. Section 1 of chapter 119 of the General Laws
2 is hereby amended by inserting the following words at the
3 end of the last sentence of the first paragraph: — and to af-
4 ford every child placed in substitute care with the opportunity
5 for eventual return to his family or placement in an alterna-
6 tive home.

1 SECTION 4. Said chapter 119 is hereby further amended by
2 inserting after section 20 the following sections: —

3 *Section 20A.* The following words as used in this section
4 and sections twenty B and twenty C shall, unless the context
5 otherwise requires, have the following meanings: —

6 “Department,” the department of social services.

7 “Foster, group or residential placement,” the definitions
8 contained in section nine of chapter twenty-eight A for the
9 words “family foster care” and “group care facility” shall ap-
10 ply to these terms and any terms using the words “foster,”
11 “group” or “residential.”

12 “Foster care review panel,” the panel established by sec-
13 tion eight B of chapter two hundred and seventeen.

14 “Child,” a person below the age of eighteen.

15 “Placement agency,” the definition contained in section nine
16 of chapter twenty-eight A shall apply.

17 *Section 20B.* The department or any licensed placement
18 agency placing a child or receiving a child for foster, group
19 or residential placement shall within thirty days of receiving
20 such child develop an appropriate plan for the permanent place-
21 ment of the child. Said plan shall contain, but shall not be
22 limited to, the following information: —

23 (1) the purpose for which the child has been placed in
24 care;

25 (2) the anticipated length of time in which the purpose of
26 the placement may be accomplished;

27 (3) a description of the services which are to be provided
28 in order for the purpose of the placement to be accomplished;

29 (4) the person within the department or agency who is di-
30 rectly responsible for assuring that the plan is implemented.

31 Said plan shall be reviewed at a supervisory level within the
32 department or agency every six months. All progress in com-
33 pliance with the plan shall be noted on the plan.

34 *Section 20C. (a)* The department or any licensed placement
35 agency having care, custody or guardianship with custody of
36 a child who resides in a foster home or group care facility
37 shall, when such child has resided in said home or facility for
38 a period of six months, and at the end of each six month in-
39 terval thereafter that the child remains in said home or facil-
40 ity, forward to a foster care review panel for the county in
41 which, in the case of a licensed placement agency its principal
42 office is located or, in the case of the department, the office
43 responsible for the child's case is located, a copy of the plan
44 for such child as required by section twenty B of this chapter.
45 Said plan shall be mailed to the panel within seven days of
46 the completion of the sixth month of such residence, and at
47 the end of each six month interval thereafter that the place-
48 ment continues.

49 (b) Following receipt of a plan forwarded in accordance
50 with paragraph (a), after the sixth or twelfth month of place-
51 ment, the members of the foster care review panel shall as-
52 sume that the facts recited in the plan are true and shall de-
53 termine by vote whether or not the plan and any progress
54 noted thereon is suitable and in the best interests of the child.

55 (c) If, after consideration of a plan forwarded in accord-
56 ance with paragraph (a), the panel determines that more in-
57 formation must be included in the plan before the panel can
58 determine its suitability, then the panel shall return the plan
59 to the forwarding department or agency with a request for fur-
60 ther information.

61 (d) Upon receipt of a request for further information sent
62 in accordance with paragraph (c), the forwarding department
63 or agency shall within ten working days attach the additional

64 information specified in the request to the plan and return it
65 to the panel which made the request.

66 (e) Following receipt of a plan and any further informa-
67 tion forwarded in accordance with paragraph (d), the mem-
68 bers of the panel shall assume the facts recited in the plan and
69 information attached thereto are true and shall determine by
70 vote whether or not the plan is suitable and in the best inter-
71 ests of the child. If, after consideration of additional informa-
72 tion forwarded in accordance with paragraph (d), a member
73 of a panel believes that more information must be included in
74 the plan before he can determine its suitability, then such
75 member shall vote that the plan is not suitable.

76 (f) If a panel votes in accordance with paragraphs (b) or
77 (e) that a plan is suitable and in the best interests of the
78 child, it shall note its approval on the plan and no further ac-
79 tion need then be taken on the plan by the panel.

80 (g) If a panel votes in accordance with paragraphs (b) or
81 (e) that a plan is not suitable, and no custody or guardianship
82 petition is already pending in a probate court in the common-
83 wealth, it shall send a letter to the forwarding department or
84 agency directing it to file a petition pursuant to subsection C
85 of section twenty-three of chapter one hundred and nineteen,
86 or sections two and five of chapter two hundred and one, or sec-
87 tion three of chapter two hundred and ten, in the probate court
88 for the county specified in paragraph (a) within two weeks
89 of the receipt of said letter. A copy of said letter shall be
90 mailed to the register of probate for that county.

91 (h) If a panel votes in accordance with paragraphs (b) or
92 (e) that a plan is not suitable, and a custody or guardianship
93 petition is already pending or has already been allowed in a
94 probate court in the commonwealth, it shall send a letter to
95 the forwarding department or agency directing it to file a
96 motion for a review of placement in the existing probate cus-
97 tody or guardianship case. A copy of said letter shall be mailed
98 to the register of probate for the court in which the case was
99 filed or allowed.

100 (i) Following receipt of a plan forwarded in accordance with
101 paragraph (a) after the eighteenth month of a placement, the
102 panel shall send to the forwarding department or agency the

103 letter required by either paragraph (g) or paragraph (h).

104 (j) Upon receipt of a letter sent in accordance with para-
105 graph (g), (h), or (i), the department or agency shall within
106 two weeks of receipt of said letter file a petition or motion in
107 the probate court as specified in said letter.

108 (k) This section shall not apply to any child for whom a
109 petition pursuant to subsection (b) of section three of chapter
110 two hundred and ten has already been filed.

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

1 SECTION 5. This act shall apply to all children who enter
2 placement in a foster home or a group care facility on or after
3 the effective date of this act.

1 SECTION 6. The administrative justice for the probate and
2 family court department of the trial court of the common-
3 wealth shall establish regulations consistent with the intent
4 of this act to review the placement of children who are al-
5 ready residing in a foster home or group care facility on the
6 effective date of this act.

