

By Ms. Fox of Boston, petition of Gloria L. Fox and other members of the General Court relative to authorizing qualified independent clinical social workers to perform certain evaluations. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

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

AN ACT AUTHORIZING QUALIFIED INDEPENDENT CLINICAL SOCIAL WORKERS TO PERFORM CERTAIN COMPETENCY EVALUATIONS.

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. Section 1 of chapter 123 of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby amended by
3 inserting after paragraph 8 the following: —

4 “Qualified licensed independent clinical social worker”, a
5 licensed independent clinical social worker who is licensed
6 pursuant to sections one hundred and thirty to one hundred and
7 thirty-seven, inclusive, of chapter one hundred and twelve who
8 is designated by and who meets qualifications required by the
9 regulations of the department, provided that different qualifica-
10 tions may be established for different purposes of this chapter.
11 Qualifications shall include but not be limited to: one thousand
12 hours of post-LICSW experience supervised by a licensed mental
13 health professional in an inpatient or outpatient setting that
14 includes but is not limited to the assessment of forensic mental
15 health issues; training visits to Bridgewater State Hospital, a court
16 clinic, a Department of Mental Health inpatient facility, and a
17 county jail or house of correction; completion of a reasonable
18 number of forensic evaluations as determined by the Assistant
19 Commissioner of Forensic Mental Health; successful completion
20 of an examination given by a forensic mental health supervisor
21 which must include at a minimum a written examination;
22 successful completion of periodic reviews of his or her forensic

23 reports as deemed necessary by the Department of Forensic
24 Medicine; and, in order to make provision for the diagnosis and
25 treatment of medical problems, maintenance of a consultative
26 relationship with a physician licensed to practice medicine by this
27 state. A qualified licensed independent clinical social worker need
28 not be an employee of the department or of any facility of the
29 department.

1 SECTION 2. Section 12 of chapter 123 of the General Laws,
2 as appearing in 1984 Official Edition, is hereby amended by
3 striking out paragraph (a) and inserting in place thereof the
4 following paragraph: —

5 (a) Any physician who is licensed pursuant to section two of
6 chapter one hundred and twelve, a qualified psychologist licensed
7 pursuant to sections one hundred and eighteen to one hundred
8 twenty-nine, inclusive, of said chapter one hundred and twelve,
9 or a qualified independent clinical social worker licensed pursuant
10 to sections one hundred and thirty to one hundred and thirty-
11 seven, inclusive, of said chapter one hundred and twelve, who after
12 examining a person has reason to believe that failure to hospitalize
13 such person would create likelihood of serious harm by reason
14 of mental illness may restrain or authorize the restraint of such
15 person and apply for the hospitalization of such person for a ten
16 day period at a public facility or at a private facility authorized
17 for such purposes by the department. If an examination is not
18 possible because of the emergency nature of the case and because
19 of the refusal of the person to consent to such examination, the
20 physician, qualified psychologist, or qualified licensed indepen-
21 dent clinical social worker, on the basis of the facts and
22 circumstances, may determine that hospitalization is necessary
23 and may apply therefor. In an emergency situation, if a physician,
24 qualified psychologist, or qualified licensed independent clinical
25 social worker is not available, a police officer, who believes that
26 failure to hospitalize a person would create a likelihood of serious
27 harm by reason of mental illness may restrain such person and
28 apply for the hospitalization of such person for a ten day period
29 at a public facility or a private facility authorized for such purpose
30 by the department. An application for hospitalization shall state
31 the reasons for the restraint of such person and any other relevant

32 information which may assist the admitting physician or
33 physicians. Whenever practicable, prior to transporting such
34 person, the applicant shall telephone or otherwise communicate
35 with a facility to describe the circumstances and known clinical
36 history and to determine whether the facility is the proper
37 facility to receive such person and also to give notice of any
38 restraint to be used and to determine whether such restraint is
39 necessary.

1 SECTION 3. Section 15 of chapter 123 of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby amended by
3 striking out paragraph (a) and inserting in place thereof the
4 following paragraph:—

5 (a) Whenever a court of competent jurisdiction doubts whether
6 a defendant in a criminal case is competent to stand trial or is
7 criminally responsible by reason of mental illness or mental defect,
8 it may, at any stage of the proceedings after the return of an
9 indictment or the issuance of a criminal complaint against the
10 defendant, order an examination of such defendant to be
11 conducted by one or more qualified physicians, one or more
12 qualified psychologists, or one or more qualified licensed
13 independent clinical social workers. Whenever practicable,
14 examinations shall be conducted at the court house or place of
15 detention where the person is being held. When an examination
16 is ordered, the court shall instruct the examining physician or
17 physicians, the examining psychologist or psychologists, or the
18 examining licensed independent clinical social worker or licensed
19 independent clinical social workers in the law for determining
20 mental competence to stand trial and criminal responsibility.

1 SECTION 4. Section 15 of chapter 123 of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby further
3 amended by striking out paragraph (b) and inserting in place
4 thereof the following paragraph:—

5 (b) After the examination described in paragraph (a), the court
6 may order that the person be hospitalized at a public facility, or,
7 if such person is a male and appears to require strict security, at
8 the Bridgewater state hospital, for a period not to exceed twenty
9 days for observation and further examination, if the court has

10 reason to believe that such observation and further examination
11 are necessary in order to determine whether mental illness or
12 mental defect have so affected a person that he is not competent
13 to stand trial or not criminally responsible for the crime or crimes
14 for which he has been charged. Copies of the complaints or
15 indictments and the physician's, psychologist's, or licensed in-
16 dependent clinical social worker's report under paragraph (a)
17 shall be delivered to the facility or said hospital with the person.
18 If, before the expiration of such twenty-day period, an examining
19 qualified physician, an examining qualified psychologist, or an
20 examining qualified licensed independent clinical social worker
21 believes that observation for more than twenty days is necessary,
22 he shall so notify the court and shall request in writing an
23 extension of the twenty-day period, specifying the reason or
24 reasons for which such further observation is necessary. Upon
25 receipt of such request, the court may extend said observation
26 period, but in no event shall the period exceed forty days from
27 the date of the initial court order of hospitalization; provided,
28 however, if the person requests continued care and treatment
29 during the pendency of the criminal proceedings against him and
30 the superintendent or medical director agrees to provide such care
31 and treatment, the court may order the further hospitalization of
32 such person at the facility or the Bridgewater state hospital.

1 SECTION 5. Section 15 of chapter 123 of the General Laws
2 as appearing in the 1984 Official Edition, is hereby further
3 amended by striking out paragraph (c) and inserting in place
4 thereof the following paragraph: —

5 (c) At the conclusion of the examination or the observation
6 period, the examining qualified physician or physicians, the
7 examining qualified psychologist or psychologists, or the
8 examining qualified licensed independent clinical social worker
9 or licensed independent clinical social workers shall forthwith give
10 to the court written signed reports of their findings including the
11 clinical findings bearing on the issue of competence to stand trial
12 or criminal responsibility. Such reports shall also contain an
13 opinion, supported by clinical findings, as to whether the
14 defendant is in need of treatment and care offered by the
15 department.

1 SECTION 6. Section 15 of chapter 123 of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby further
3 amended by striking out paragraph (f) and inserting in place
4 thereof the following paragraph: —

5 (f) In like manner to the proceedings under paragraphs (a), (b),
6 (c), and (e), a court may order a clinical examination or a period
7 of observation for an alleged delinquent in a facility to aid the
8 court in its disposition. Such period of observation shall not
9 exceed forty days.

1 SECTION 7. Paragraph (a) of section 18 of chapter 123 of the
2 General Laws, as appearing in the 1984 Official Edition, is hereby
3 amended by inserting, in line 6, after the words “psychologist or
4 psychologists”, the words “or licensed independent clinical social
5 worker or licensed independent clinical social workers”.

1 SECTION 8. Paragraph (a) of section 18 of chapter 123 of the
2 General Laws, as appearing in the 1984 Official Edition, is further
3 amended by inserting, in line 8, after the words “psychologist or
4 psychologists”, the words “or licensed independent clinical social
5 worker or licensed independent clinical social workers”.

1 SECTION 9. Section 19 of chapter 123 of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby amended by
3 striking out said section and inserting in place thereof the
4 following: —

5 Section 19. In order to determine the mental condition of any
6 party or witness before any court of the commonwealth, the
7 presiding judge may, in his discretion, request the department to
8 assign a qualified physician, psychologist, or licensed independent
9 clinical social worker who, if assigned shall make such
10 examinations as the judge may deem necessary.

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 the progress of the war. The second part
 was devoted to the study of the
 constitution and the principles of
 government. The third part was spent
 in the study of the principles of
 political economy and the history of
 the world. The fourth part was spent
 in the study of the principles of
 natural philosophy and the history of
 the earth. The fifth part was spent
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 medicine and the history of the human
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