

By Mr. Robinson of Melrose, petition of William G. Robinson, Iris K. Holland, Forrester A. Clark, Jr., Kevin Poirier, Deborah R. Cochran and John H. Loring relative to foster care for children. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT RELATIVE TO FOSTER CARE.

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. Chapter 119 of the General Laws is hereby
2 amended by inserting after section 27, the following sections: —
3 *Section 27A.* As used in sections 27A through 27E inclusive, the
4 following words shall have the following meaning unless the con-
5 text requires otherwise.

6 a) "Adequate parental relationship," that relationship
7 maintained between a parent and child which will be beneficial to
8 the future growth and well being of the child.

9 b) "Department," the department of social services.

10 c) "Family reunification services," services offered by the
11 department, whose purpose is to facilitate the return of a child who
12 has been placed in foster care to the care and physical custody of his
13 parent. These services shall be designed to aid said parent in
14 overcoming the problem which originally led to the deprivation of
15 physical custody and shall include, but not be limited to: informa-
16 tion and referral, case management, family planning, homemaker,
17 chore and emergency shelter care.

18 d) "Work progressively," a program offered by the department
19 enabling a parent whose child has been removed from his custody
20 for the reasons stated in section 27B of this chapter to provide care
21 and control for the child, maintain an adequate parental relation-
22 ship with the child and maintain continuous contact with the child.

23 *Section 27B.* When a child below the age of eighteen has been
24 removed from the custody of his parent and is in the custody of the
25 department, for reasons of abuse, neglect, or abandonment, or
26 when a child in the custody of the department has been in one or
27 more foster homes for two or more consecutive years, said child's
28 parent shall be offered an opportunity to work progressively with
29 said child for a period not to exceed twelve months. Within thirty
30 days following the completion of said twelve month period a
31 hearing shall be held, pursuant to the provisions of section 27C of
32 this chapter.

33 *Section 27C.* Within thirty days following the completion of the
34 twelve month period provided for in section 27B of this chapter,
35 a hearing shall be conducted by a referee designated by the direc-
36 tor of the division of hearings at a location within the department.
37 Said location shall be convenient to the parties involved and shall
38 be conducted as an adjudicatory proceeding under chapter 30A of
39 the General Laws. The referee may subpoena witnesses, administer
40 oaths, take testimony and secure the production of such books,
41 papers, records and documents as may be relevant to such hearing.
42 The parent shall have the opportunity to confront and cross-
43 examine all adverse witnesses and to question or refute any testi-
44 mony, evidence, materials, or legal arguments. The referee shall
45 base his decision solely on the testimony, evidence, materials and
46 legal rules adduced at the hearing. The referee shall render and is-
47 sue his decision within ten days of said hearing. The referee may re-
48 open a hearing for the purpose of considering further testimony,
49 evidence, materials or legal rules within thirty days following the
50 end of any six month extension period as provided for in section
51 27D of this act. At any reopened hearing, the provisions of this sec-
52 tion shall apply. The decision of the referee shall be subject to re-
53 view in accordance with the provisions of chapter 30A.

54 *Section 27D.* At the hearing provided for in section 27B, the
55 referee shall:

56 a) find the child to be adoptable and recommend that the
57 department seek to have the child adopted, for the following
58 reasons:

59 (i) The child's parent refuses to participate in family reunifica-
60 tion services offered by the department, or;

61 (ii) the child's parent does not participate in family reunification
62 services offered by the department and does not request a six
63 month extension; or

64 (iii) the child's parent is unable to establish an adequate parental
65 relationship after participating in family reunification services, and
66 does not request a six month extension;

67 b) find that custody of the child should be returned to the parent
68 and recommend that the department petition the courts to return
69 said custody to the parent, if it is determined that an adequate
70 parental relationship now exists, or;

71 c) grant the parent one six month extension period for the
72 purpose of further working progressively with the child, if the
73 parent so requests the extension for either of the following reasons:

74 (i) the parent is dissatisfied with the family reunification serv-
75 ices, or;

76 (ii) the parent, after participating in said services, has been
77 unable to overcome the problem which originally led to the prob-
78 lem.

79 2. If a six month extension period is granted under 1(c) of this
80 section, the referee, following said period, shall:

81 a. find the child to be adoptable and recommend that the
82 department seek to have the child adopted, if it is determined that
83 adequate parental relationship does not exist; or

84 b. find that custody of the child should be returned to the parent
85 and recommend that the department petition the courts to return
86 said custody to the parent, if it is determined that an adequate
87 parental relationship now exists.

88 *Section 27E.* Prior to beginning any hearing involving a child of
89 fourteen years or older, the referee shall ask said child if he has a
90 preference as to whether custody should be returned to his parent.
91 If said child states that he prefers that custody be returned to his
92 parent, the department shall petition the courts to return custody
93 to the parent and any right to a hearing shall be waived.

1 SECTION 2. The fourth paragraph of section 3 of chapter 210

2 of the General Laws, as most recently amended by section 36 of
3 chapter 552 of the acts of 1978, is hereby amended by inserting after
4 the words "or other agency initiating the petition", at the end of
5 said paragraph, the words: — and if the provisions of sections 27A
6 through 27E of chapter 119 of the General Laws have been utilized:

7 (1) the court shall be bound by the findings made under section
8 27D of said chapter, if judicial review of the decision of the referee
9 is sought as provided therein and said decision is affirmed, unless
10 the parent can show that a material and substantial change in
11 circumstance has occurred and that potential for an adequate
12 parental relationship now exists; or,

13 (2) the court shall consider the findings made under section 27C,
14 if such judicial review has not been sought.

1 SECTION 3. Section 3 of said chapter 210, as most recently
2 amended by section 36 of chapter 552 of the acts is hereby further
3 amended by striking out the last paragraph.

1 SECTION 4. For the purposes of section 27C of chapter 119 of
2 the General Laws, the director of the division of hearings shall be
3 the person so appointed under the provisions of section 16 of
4 chapter 18 of the General Laws until such time as a similar position
5 or division is established within the department of social services,
6 at which time said duties and responsibilities shall be transferred to
7 the similar position.

1 SECTION 5. This act shall apply immediately to children who
2 come under the custody of the department after the effective date
3 of this act. The department shall, within sixty days of said effective
4 date, review all foster care cases for whom the department had
5 custody prior to said effective date, and shall develop and begin
6 implementing a plan for phasing-in all children who have been in
7 one or more foster homes for two or more consecutive years. Said
8 plan shall give priority to children in order of their age, and withi
9 each age group, in order of the length of time the child has been in
10 the custody of the department. Said implementation shall begin
11 within ninety days of the effective date of this act.

1 SECTION 6. This act shall become effective September 1,
2 1980, or sixty days following its passage whichever comes first.