

HOUSE No. 1435

By Mr. Fitzgerald of Boston, petition of Kevin W. Fitzgerald that provision be made for certain juvenile offenders to be committed to secured facilities. Criminal Justice.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING THAT CERTAIN JUVENILE DELINQUENTS BE COMMITTED TO SECURED FACILITIES.

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 58 of Chapter 119 is hereby amended by striking same
2 and substituting therefor the following: —

3 *Section 58.* (1) At the hearing of a complaint against a child,
4 the court shall hear the testimony of any witnesses that appear to
5 take such evidence relative to the case as shall be produced. If the
6 allegations against the child are proved beyond a reasonable
7 doubt, he may be adjudged a delinquent child.

8 (2) If the child is adjudged delinquent, the court may make any of
9 the following orders of disposition, or any combination thereof,
10 best suited to the juvenile's treatment, rehabilitation, and wel-
11 fare: —

12 (a) place the case on file;

13 (b) place the juvenile on probation under the supervision of the
14 probation officer of the court, with terms and conditions pre-
15 scribed by the court;

16 (c) commit the juvenile to the custody of the department of youth
17 services;

18 (d) commit the juvenile to the custody of the department of
19 youth services with an order that the child be held at a secure

20 treatment facility for a period not longer than the maximum period
21 for which an adult could be sentenced if he had committed the same
22 offense but in no case longer than twelve months. The juvenile shall
23 not be permitted to leave the grounds of the secure treatment
24 facility except under appropriate supervision as determined by the
25 department. The department of youth services shall not parole or
26 otherwise release the juvenile from the secure treatment facility
27 prior to the completion of the court-prescribed period of treatment
28 unless the department has obtained written approval of a service
29 plan from a judge of the court from which the juvenile was commit-
30 ted. Subsection (d) is limited in its application to offenses against
31 persons involving the use or threat of violence including murder,
32 rape, kidnapping, arson, robbery, assault to murder and assault
33 and battery by means of a dangerous weapon; and to property
34 offenses upon an adjudication of delinquency or a finding of
35 sufficient facts for such an adjudication on three separate property
36 offenses. Under no circumstances is the court required to commit a
37 juvenile under this subsection.

38 (3) If the child is adjudged delinquent by the superior court, the
39 superior court may make any order of disposition as provided in
40 subsection (2) of this section. If the juvenile is placed on probation
41 by the superior court, he may be placed in the care of a probation
42 officer of the district court, including in the term the Boston, the
43 Worcester, the Bristol county and the Springfield juvenile courts,
44 within the judicial district in which the child resides.

45 (4) The court may make an order for payment by the child's
46 parents or guardian from the child's property, or by any other
47 person responsible for the care and support of said child, to the
48 institution, department, division, organization or person furnish-
49 ing care and support at times to be stated in an order by the court of
50 sums not exceeding the cost of said support after ability to pay has
51 been determined by the court; provided, that no order for the
52 payment of money shall be entered until the person by whom
53 payments are to be made shall have been summoned before the
54 court and given an opportunity to be heard. The court may from
55 time to time, upon petition by, or notice to the person ordered to
56 pay such sums of money, revise or alter such order or make a new
57 order as the circumstances may require.

58 Section 6 of chapter 120 is hereby amended by striking same and
59 substituting therefor the following: —

60 *Section 6.* (1) When a juvenile has been committed to the de-
61 partment of youth services under Chapter 119, section 58 (2) (c),
62 the department may after an objective consideration of all availa-
63 ble information: —

64 (a) permit him his liberty under supervision and upon such
65 conditions as it believes conducive to law-abiding conduct; or

66 (b) order his confinement under such conditions as it believes
67 best designed for the protection of the public; or

68 (c) order recommitment or renewed release as often as conditions
69 indicate to be desirable; or

70 (d) revoke or modify any order, except an order of final dis-
71 charge, as often as conditions indicate to be desirable; or

72 (e) discharge him from control with notice to the court, except as
73 provided in section twelve, when it is satisfied that such discharge is
74 consistent with the protection of the public.

75 (2) When a juvenile who has been committed to the department
76 of youth services under Chapter 119, section 58 (2) (d) has complet-
77 ed the court-prescribed period of treatment at a secure treatment
78 facility, the department may after an objective consideration of all
79 available information take such action as is provided in subsection
80 (1) (a) through (e) of this section.

81 Section 6A of chapter 120 is hereby amended by striking same
82 and substituting therefor the following: —

83 *Section 6A.* As a means of correcting the socially harmful ten-
84 dencies of a person committed to the department of youth services
85 under Chapter 119, section 58 (2) (c) or (d), the department may: —

86 (a) require participation by him in vocational, physical, educa-
87 tional, and correctional training and activities;

88 (b) require such modes of life and conduct as seem best adapted
89 to fit him for return to full liberty and without danger to the public;

90 (c) provide such medical or psychiatric treatment as is necessary.

91 Section 12 of chapter 120 is hereby amended by striking same
92 and substituting therefor the following: —

93 *Section 12.* (1) With respect to juveniles committed under
94 Chapter 119, section 58 (2) (c) to the department of youth services,
95 the department may direct their release under supervision at any

96 time, and may place children in its custody in their usual homes or
97 in any situation or family that has been approved by the depart-
98 ment. The commissioner of youth services may, subject to appro-
99 priation, employ agents for investigating places and for visiting
100 and supervising children, and may provide for the maintenance in
101 whole or in part, of any child so placed in the charge of any person.