

October 2, 2023

The Honorable Robyn K. Kennedy  
Senate Chair, Joint Committee on Children, Families, and Persons with Disabilities

The Honorable Jay D. Livingstone  
House Chair, Joint Committee on Children, Families, and Persons with Disabilities

Dear Chair Kennedy, Chair Livingstone, Vice Chairs, and Committee members,

The Children's League of Massachusetts (CLM) is a statewide non-profit association of nearly 60 private and public organizations that collectively advocate for the availability, accessibility, and quality of services that are in the best interest of the Commonwealth's children, youth, and families. Our members know first-hand the struggles that children and their families face in the Commonwealth. Our Task Forces and Coalitions understand that effective foster care review is critical to ensuring the safety and well-being of DCF-involved children, which is why we are writing to testify **in support of An Act establishing the Massachusetts foster care review office** (H.211/S.88), with the caveat that we do not agree it is necessary to move this effort to an independent agency outside of the Office of the Child Advocate (OCA).

Through the Adoption Assistance and Child Welfare Act of 1980 (Public Law 60 96-272), the federal government requires foster care review every six-month for children in nonpermanent, out-of-home placements. A summary of the goals include: evaluating the necessity for and appropriateness of the placement, compliance with the case plan, progress of alleviating and mitigating the causes necessitating placement in foster care, and projection of likely date of return home, adoption, or guardianship placement.<sup>1</sup> Massachusetts established a foster care review unit within DCF funded through Massachusetts State Budget's line item 4800-0025.<sup>2</sup> It is that internal structure that can create challenges and potential conflicts of interest at odds with ensuring a robust and independent review. Our understanding is that DCF has acknowledged independence and depth of review is important for the integrity of these panels.<sup>3</sup> FCRs extensively evaluate the activities, effectiveness, and systemic barriers within DCF, making the inclusion of impartial reviewers imperative. To enhance impartiality and prioritize the best interests of children, it is crucial for FCRs to involve a higher number of independent reviewers compared to DCF workers. We also believe that more oversight of

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<sup>1</sup> Public Law 96-272, 96<sup>th</sup> Congress, June 17, 1980.

<sup>2</sup> M.G.L. c. 18B, Section 6A; MA State Budget Line Item 4800-0025.

<https://budget.digital.mass.gov/govbudget/fy22/appropriations/health-and-human-services/children-and-families/48000025>

<sup>3</sup> Foster Care Review Report FY2022. Massachusetts Department of Children and Families. Dec. 2022, p. 8. <https://www.mass.gov/doc/foster-care-review-report-fy-2022/download>

foster care review outside of the DCF bubble would support better cross-agency coordination of care for especially complex cases.

The Child Abuse Prevention and Treatment Act (CAPTA) requires each state to have citizen review panels that meet quarterly and report annually on their state's compliance with child protection requirements.<sup>4</sup> Massachusetts, like some other states, uses its existing foster care review panels to meet this requirement by including one volunteer case reviewer from the local community on the three-person foster care review panel. The remaining members on the panel include a representative from the DCF Foster Care Review Unit and an administrator from the DCF area office. Having two DCF staff members on the panel leaves the panel partial to DCF's prior decisions and potentially unrealized biases, such as based on relationships with colleagues.

According to The Office of the Child Advocate (OCA) report on the death of David Almond, foster care reviews were identified as ineffective and potentially harmful. Specifically, the report highlighted the internal foster care review panel's role in changing the goal of David and his brothers back to reunification, despite minimal engagement of the parents in services and no information presented at the review that warranted the goal change.<sup>5</sup> Instead of conducting a comprehensive investigation, the panel relied solely on the limited information presented by DCF case management staff. The OCA's report identified various challenges and made recommendations that highlighted the importance of having an appropriate FCR panel in place. For example, one key aspect emphasized the need for the FCR panel to ensure that appropriate clinical formulations were being conducted thoroughly to adequately synthesize information about a family and promote safety and well-being. The report suggested that an effective FCR panel would have been able to detect and address these issues to improve the overall safety and well-being of the children involved.<sup>6</sup> This investigation highlights the need for external oversight of decisions made during Foster Care Reviews.

While the David Almond case and others have led to periodic reforms, they remain devastating reminders of the need for checks and balances. In FY22, 11,829 children and youth in out-of-home care required FCRs and 10,461 FCRs were convened.<sup>7</sup> Ensuring these children receive proper attention and adequate reviews is no small order. While this legislation requires the FCRO to be entirely independent, CLM supports the FCRO to be within the Office of the Child Advocate, which

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<sup>4</sup> Citizen Review Panels. Child Welfare Information Gateway. Children's Bureau. Website Post.

<https://www.childwelfare.gov/topics/management/administration/partnerships/oversight/citizen/>

<sup>5</sup> Investigative Report: A Multi System Investigation Into the Death of David Almond. Office of the Child Advocate. March 2021, pp. 13-14. <https://www.mass.gov/doc/office-of-the-child-advocate-investigative-report-march-2021/download>

<sup>6</sup> Investigation Status Report: Regarding the Multi System Investigation into the Death of David Almond, March 2022, Office of the Child Advocate, p. 13. <https://www.mass.gov/doc/oca-investigation-status-report-on-david-almond-march-2022/download#:~:text=The%20OCA%20released%20its%20investigative,our%20state%20system%20of%20care.>

<sup>7</sup> Foster Care Review Report FY2022. Massachusetts Department of Children and Families. Dec. 2022, p. 14.

<https://www.mass.gov/doc/foster-care-review-report-fy-2022/download>



already has oversight over DCF and has collaborated on improving foster care review, engaging in systems review of the foster care review program and monitoring progress.<sup>8</sup> Ultimately wherever it sits, CLM believes that foster care review overall needs greater transparency so that experts, advocates, and policymakers can collaborate with DCF and the OCA on solutions that support the success of youth in foster care and ensure timely progress toward permanency outcomes is achieved.

This Foster Care Review Office bill, as is or simply modified to include the FCRO within the OCA, is needed to ensure a system whereby independent oversight is clearly designated, to include an identified independent foster care review oversight authority, and that DCF will be held accountable for participating in these system changes. It is critical for the safety, permanency and well-being of children that we build accountability to ensure the appropriate decisions are made on behalf of children in the care and custody of the Commonwealth. We respectfully urge you to report this bill out of Committee favorably and work diligently for its passage.

Sincerely,

Rachel Gwaltney  
Executive Director  
Children's League of Massachusetts

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Justice Resource Institute  
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<sup>8</sup> Office of the Child Advocate Annual Report, FY22, April 2023, Commonwealth of Massachusetts, Director Maria Mossaides, pp., 6, 13. <https://www.mass.gov/doc/oca-annual-report-fiscal-year-2022/download>



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