

**HOUSE . . . . . No. 3801**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Colleen M. Garry*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

PETITION OF:

NAME:

*Colleen M. Garry*

DISTRICT/ADDRESS:

*36th Middlesex*

**HOUSE . . . . . No. 3801**

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By Miss Garry of Dracut, a petition (subject to Joint Rule 12) of Colleen M. Garry relative to public transparency to support quality care outcomes in all child serving organizations. Children, Families and Persons with Disabilities.

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**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

*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 22N of chapter 7 of the General Laws is hereby amended by adding  
2 after the ninth paragraph the following paragraph: -

3           “The bureau shall annually provide notice to all governmental units, including school  
4 committees, who are purchasers of special education programs pursuant to chapter 71B of the  
5 availability and location of Uniform Financial Statement and Independent Auditor’s Reports  
6 (UFR) as defined in regulation by the division that have been completed and submitted to said  
7 division in accordance with 808 CMR 1.04.”

8           SECTION 2. Section 55A of chapter 15 of the General Laws is hereby amended after the  
9 fifth paragraph by adding the following five paragraphs: -

10           “The office shall make said reviews, findings, recommendations, methods for improving  
11 any deficiencies identified by the office and any required corrective action plans available on the  
12 department’s website.”

13           “The office shall make available on the department’s website annual restraint data in the  
14 aggregate, information in the aggregate on the number injuries related to restraints for schools,  
15 charter schools and school districts, including regional school districts, and make this  
16 information available in the aggregate for each school, provided that the office shall adequately  
17 describe the nature of the student population and any associated behaviors for the student  
18 population served in relation to the number of reported restraints, and provided further that the  
19 information required in this paragraph complies with state and federal child and student privacy  
20 laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section  
21 shall be determined to supersede any regulations and policies of the department relating to the  
22 privacy of a child. The office shall promulgate regulations, subject to chapter 30A, to determine  
23 a process to annually make available on its website the aggregate number of critical incident  
24 reports, in the aggregate and for each program, documenting serious incidents as determined by  
25 the department where the health and safety of a child was determined to be at risk.

26           “Nothing in this section prevents schools, charter schools and school districts, including  
27 regional school districts, from appealing to the office regarding the accuracy of the information  
28 required to be made available by this section. In an event where the office is unwilling to make  
29 changes to the available information, a school, charter school, school district and regional school  
30 district shall have the right to include a clarifying statement in the area of the department’s  
31 website where said information is made available.”

32            “In promulgating regulations in accordance with this section, the office shall require the  
33 department to make the required information and data available in the aggregate and by school,  
34 charter school and school districts, including regional school districts. Reports for schools,  
35 charter schools and school districts, including regional school districts shall compare the  
36 program to other such schools according to: (a) the type of program (b) the age, sex and race of  
37 applicable student populations, (c) the type and size of a school, (d) the type of disabilities served  
38 by a school or program and the level of care required by said disabilities, (e) the number of days  
39 of service and the hours of service per day, in the aggregate by a school, charter school and  
40 school districts, including regional school districts; provided further that the department shall  
41 also ensure that said regulations comply with state and federal child and student privacy laws,  
42 including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be  
43 determined to supersede any regulations and policies of the department relating to the privacy of  
44 a child.

45            There shall be established in accordance with this section a commission established by  
46 the office that shall (1) define the levels of care required by said disabilities as used in the  
47 preceding paragraph, provided that the said levels of care are defined based on factors that  
48 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
49 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,  
50 teachers and school or program staff; and (2) provide recommendations relating to opportunities  
51 for quality improvement by utilizing said information and data required to be made available in  
52 accordance with this section, provided that said commission include the following: a  
53 representative from the department; a parent of a school age child with a disability as defined by  
54 section 1 of chapter 71B of the General Laws; and an administrator or staff member of a school,

55 charter school or school district, including a regional school district, responsible for making said  
56 information to the department.

57            Provided further that the names of any teachers, staff members or other employees who  
58 are named in a restraint report filed in accordance with the regulations shall be considered  
59 exempt according to section 10B of Chapter 66 of the General Laws.

60            SECTION 3. Chapter 15D of the General Laws is hereby amended by adding after  
61 section 7 the following section: -

62            Section 7A. Public information for licensed programs

63            (i)        The department shall promulgate regulations, subject to chapter 30A, to determine  
64 a process to annually make available on its website information relating to the license and  
65 approval of each department licensed and or funded program. This information shall include the  
66 name and location of each program and the effective date of the license and or renewal of each  
67 program and any related licensing reports.

68            (ii)        The department shall promulgate regulations, subject to chapter 30A, to determine  
69 a process to annually make available on its website the number of critical incident reports in the  
70 aggregate and for each program that documents serious incidents as determined by the  
71 department where the health and safety of a child was determined to be at risk.

72            (iii)        The department shall make available on its website annual restraint data in the  
73 aggregate and for each program licensed, funded or approved by the department in the aggregate,  
74 including information regarding the number of injuries related to restraints, provided that the  
75 department shall adequately describe the nature of the student population and any associated

76 behaviors for the student population served in relation to the number of reported restraints for  
77 each program.

78 In promulgating regulations in accordance with this section, the department shall ensure  
79 said regulations comply with state and federal child and student privacy laws, including the  
80 provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be determined  
81 to supersede any regulations and policies of the department relating to the privacy of a child.

82 Nothing in this section prevents a licensed or funded program from appealing to the  
83 department regarding the accuracy of the information required to be made available by this  
84 section. In an event where the department is unwilling to make changes to the available  
85 information, a program shall have the right to include a clarifying statement in the area of the  
86 department's website where said information is made available.

87 In promulgating regulations in accordance with this section, the department shall make  
88 the required information and data available in the aggregate and by approved or licensed  
89 program type and by individual approved or licensed program. Reports for individual approved  
90 or licensed programs shall compare the program to other approved or licensed programs  
91 according to: (a) the type of program, day or residential or other program type (b) the age, sex  
92 and race of applicable student populations, (c) the type and size of a school or program licensed,  
93 funded or approved by the department, (d) the type of disabilities served by a school or program  
94 and the level of care required by said disabilities, (e) the number of days of service and the hours  
95 of service per day, in the aggregate by a department licensed, funded or approved school or  
96 program; provided further that the department shall also ensure that said regulations comply with  
97 state and federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and

98 34 CFR Part 99. Nothing in this section shall be determined to supersede any regulations and  
99 policies of the department relating to the privacy of a child.

100           There shall be established in accordance with this section a commission established by  
101 the department that shall (1) define the levels of care required by said disabilities as used in the  
102 preceding paragraph, provided that the said levels of care are defined based on factors that  
103 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
104 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,  
105 teachers and school or program staff; and (2) provide recommendations relating to opportunities  
106 for quality improvement by utilizing said information and data required to be made available in  
107 accordance with this section, provided that said commission include: a representative from the  
108 department; a parent of a school age child with a disability as defined by section 1 of chapter  
109 71B of the General Laws; an administrator or staff member of a school licensed, funded or  
110 approved by the department responsible for making said information to the department.

111           Provided further that the names of any teachers, staff members or other employees who  
112 are named in a restraint report filed in accordance with the regulations shall be considered  
113 exempt according to section 10B of Chapter 66 of the General Laws.

114           SECTION 4. Section 1 of chapter 18A of the General Laws is hereby amended by  
115 inserting after the second paragraph the following paragraphs: -

116           “The department shall promulgate regulations, subject to chapter 30A, to determine a  
117 process to annually make available on its website the number of critical incident reports in the  
118 aggregate and for each detention center as identified in section 5 of said chapter and any cities  
119 towns, public agencies and private nonprofit agencies funded by the department that documents

120 serious incidents as determined by the department where the health and safety of a child was  
121 determined to be at risk.

122 “The department shall make available on its website annual restraint data in the aggregate  
123 and for each detention center as identified in section 5 of said chapter and any cities towns,  
124 public agencies and private nonprofit agencies funded by the department, including information  
125 regarding the number of injuries related to restraints, provided that the department shall  
126 adequately describe the nature of the youth population and any associated behaviors for the  
127 youth population served in relation to the number of reported restraints for each funded program.

128 “In promulgating regulations in accordance with this section, the department shall ensure  
129 said regulations comply with state and federal child and student privacy laws, including the  
130 provisions of 20 U.S.C. 1232g and 34 CFR Part 99 and the federal Health Insurance Portability  
131 and Accountability Act of 1996. Nothing in this section shall be determined to supersede any  
132 regulations and policies of the department relating to the privacy of a child.

133 “Nothing in this section prevents a detention center as identified in section 5 of said  
134 chapter and any cities towns, public agencies and private nonprofit agencies funded by the  
135 department from appealing to the department regarding the accuracy of the information required  
136 to be made available by this section. In an event where the department is unwilling to make  
137 changes to the available information, a detention center as identified in section 5 of said chapter  
138 and any cities towns, public agencies and private nonprofit agencies funded by the department  
139 shall have the right to include a clarifying statement in the area of the department’s website  
140 where said information is made available.



141            “In promulgating regulations in accordance with this section, the department shall make  
142 the required information and data available in the aggregate and by each detention center as  
143 identified in section 5 of said chapter and any cities towns, public agencies and private nonprofit  
144 agencies funded by the department. Reports for each detention center as identified in section 5  
145 of said chapter and any cities towns, public agencies and private nonprofit agencies funded by  
146 the department shall compare each detention center as identified in section 5 of said chapter and  
147 any cities towns, public agencies and private nonprofit agencies funded by the department  
148 according to: (a) the type of program (b) the age, sex and race of applicable populations, (c) the  
149 type and size of a said facility, (d) the population served by said facility and the level of care  
150 required by said population, (e) the number of days of service and the hours of service per day, in  
151 the aggregate; provided further that the department shall also ensure that said regulations comply  
152 with state and federal child and student privacy laws, including the provisions of 20 U.S.C.  
153 1232g and 34 CFR Part 99. The process to make public and available said information shall be  
154 determined in a manner to ensure patient privacy and to comply with state and federal privacy  
155 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

156            “There shall be established in accordance with this section a commission established by  
157 the department that shall (1) define the levels of care required by said population as used in the  
158 preceding paragraph, provided that the said levels of care are defined based on factors that  
159 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
160 other behaviors that are unsafe or threaten the health and safety of a an individual, his or her  
161 peers, department and or program staff; and (2) provide recommendations relating to  
162 opportunities for quality improvement by utilizing said information and data required to be made  
163 available in accordance with this section, provided that said commission include one

164 representative from the department and one administrator or staff member of a private, county or  
165 municipal facility or department or ward or any such facility licensed by the department.”

166           Provided further that the names of any teachers, staff members or other employees who  
167 are named in a restraint report filed in accordance with the regulations shall be considered  
168 exempt according to section 10B of Chapter 66 of the General Laws.

169           SECTION 5. Section 1 of chapter 18C of the General Laws is hereby amended by  
170 inserting the following words with the following meanings: -

171           “Child”, any person under the age of 18 or under the age of 22 if that person is a child  
172 with special needs.

173           “Child with special needs”, a child who, because of temporary or permanent disabilities  
174 arising from intellectual, sensory, emotional, or environmental factors, or other specific learning  
175 disabilities, is or would be unable to progress effectively in a regular school program.

176           SECTION 6. Section 5 of chapter 18C of the General Laws is hereby amended after  
177 clause (h) by adding the following two clauses: -

178           (i)     The child advocate with the executive office of education and the executive office  
179 of health and human services shall promulgate regulations, subject to chapter 30A, to determine  
180 a process to annually make available and public on a public website or public database the  
181 following information for each state funded, approved or licensed program, including public  
182 schools, serving a child or a child with special needs under the jurisdiction of each respective  
183 executive agency, and provided further that said information be made available for private  
184 schools approved pursuant to section 1 of chapter 76 of the General Laws.

185           (1)     The annual number of substantiated reports in the aggregate and the number of  
186     said reports per days of care for each program filed in accordance with section 51A of Chapter  
187     119 of the General Laws and any substantiated reports filed in accordance with section 15 of  
188     Chapter 19A and Chapter 19C against the program and or its employees, including the annual  
189     number of said reports per days of care resulting in hospitalization, death, and or criminal  
190     charges of which the defendants were found guilty; and

191           (2)     The annual of substantiated reports in the aggregate and the number of said  
192     reports per days of care for each program filed in accordance with section 51A of Chapter 119 of  
193     the General Laws and such substantiated reports filed in accordance with Chapter 19C related to  
194     the use of restraints.

195           The process to make public and available said information shall be determined in a  
196     manner that identifies the number of substantiated reports per days of care for each program and  
197     the number of substantiated reports per days of care that were self-reported by a program and or  
198     its staff, provided further that said process will be determined in a manner to ensure child privacy  
199     and the privacy of individuals and clients and shall comply with the provisions of section 12 of  
200     chapter 18C of the General Laws and 20 U.S.C. 1232g and 34 CFR Part 99.

201           Nothing in this section prevents such a state funded, approved or licensed program from  
202     appealing to the department regarding the accuracy of the information required to be made  
203     available by this section. In an event where the department is unwilling to make changes to the  
204     available information, a program shall have the right to include a clarifying statement in the area  
205     of the department's website where said information is made available.

206 (j) The child advocate together with the executive office of education and the  
207 executive office of health and human services shall determine the feasibility of recommending  
208 proposed regulations or policies that establish a consistent definition of restraint to agencies  
209 within said secretariats that fund, license or approve child serving schools, programs or  
210 organizations within one year after the effective date of this act; and provided further that the  
211 child advocate together with said secretariats within one year after the effective date of this act  
212 also issue a report to the governor of the commonwealth, the clerks of the house of  
213 representatives and the senate, the chairs of the joint committee on education and the joint  
214 committee on children, families and persons with disabilities that details the feasibility of  
215 establishing a single online reporting system coordinated between agencies that allows for the  
216 reporting of restraints and critical incidents by child serving schools, programs or organizations  
217 within the commonwealth.

218 SECTION 7. Section 19 of chapter 19 of the General Laws is hereby amended by adding  
219 after clause (g) following clause: -

220 (h) As part of its licensing process, the department shall promulgate regulations, subject  
221 to chapter 30A, to determine a process to annually make available and public on a public website  
222 or public database the following information for any private, county or municipal facility or  
223 department or ward or any such facility licensed by the department serving any person under the  
224 age of 18 or under the age of 22 if that person is a child with special needs:

225 1.) Information relating to the license of each facility granted by the department. This  
226 information shall include the name and location of each program and the effective date of the  
227 license and or renewal of each program and any related licensing reports;

228           2.)     The annual of substantiated reports in the aggregate and the number of said  
229 reports per days of care for each facility filed in accordance with section 51A of Chapter 119 of  
230 the General Laws and substantiated reports filed in accordance with Chapter 19C against the  
231 program and or its employees, including the annual number of such substantiated reports per  
232 days of care resulting in hospitalization, death, and or criminal charges of which the defendants  
233 were found guilty, provided further that said information shall also include the number of  
234 substantiated reports per days of care that were self-reported by a facility and or its staff.

235           3.)     The annual number of substantiated reports in the aggregate and the number of  
236 said reports per days of care for each facility filed in accordance with section 51A of Chapter  
237 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C  
238 related to the use of restraints, provided further that said information shall also include the  
239 number of substantiated reports per days of care that were self-reported by a facility and or its  
240 staff.; and

241           4.)     Annual restraint data in the aggregate and for each program licensed, funded by  
242 the department in the aggregate, including information regarding the number of injuries related  
243 to restraints, provided that the department shall adequately describe the nature of the patient  
244 population and any associated behaviors for the patient population served in relation to the  
245 number of reported restraints for each licensed facility.

246           The department shall promulgate regulations, subject to chapter 30A, to determine a  
247 process to annually make available on its website the number of incident reports in the aggregate  
248 and for each program that documenting serious incidents as determined by the department where  
249 the health and safety of an individual with disabilities was determined to be at risk.

250           The process to make public and available said information shall be determined in a  
251 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
252 federal Health Insurance Portability and Accountability Act of 1996.

253           Nothing in this section prevents such facility from appealing to the department regarding  
254 the accuracy of the information required to be made available by this section. In an event where  
255 the department is unwilling to make changes to the available information, a facility shall have the  
256 right to include a clarifying statement in the area of the department's website where said  
257 information is made available.

258           In promulgating regulations in accordance with this section, the department shall make  
259 the required information and data available in the aggregate and by private, county or municipal  
260 facility or department or ward or any such facility licensed by the department. Reports for said  
261 individual facilities shall compare the facility to other private, county or municipal facilities or  
262 department or wards or any other such facility licensed by the department according to: (a) the  
263 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said  
264 facility, (d) the population served by said facility and the level of care required by said  
265 population, (e) the number of days of service and the hours of service per day, in the aggregate;  
266 provided further that the department shall also ensure that said regulations comply with state and  
267 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR  
268 Part 99. The process to make public and available said information shall be determined in a  
269 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
270 federal Health Insurance Portability and Accountability Act of 1996.

271           There shall be established in accordance with this section a commission established by  
272 the department that shall (1) define the levels of care required by said population as used in the  
273 preceding paragraph, provided that the said levels of care are defined based on factors that  
274 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
275 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,  
276 department and or program staff; and (2) provide recommendations relating to opportunities for  
277 quality improvement by utilizing said information and data required to be made available in  
278 accordance with this section, provided that said commission include one representative from the  
279 department and one administrator or staff member of a private, county or municipal facility or  
280 department or ward or any such facility licensed by the department. Provided further that the  
281 names of any teachers, staff members or other employees who are named in a restraint report  
282 filed in accordance with the regulations shall be considered exempt according to section 10B of  
283 Chapter 66 of the General Laws.

284           SECTION 8. Section 15 of chapter 19B of the General Laws is hereby amended by  
285 adding after clause (g) the following clause: -

286           (h) As part of its licensing process, department shall promulgate regulations, subject to  
287 chapter 30A, to determine a process to annually make available and public on a public website or  
288 public database the following information for any private, county or municipal facility or  
289 department or ward or any such facility licensed by the department serving any person under the  
290 age of 18 or under the age of 22 if that person is a child with special needs:

291           1.)     Information relating to the license of each facility granted by the department. This  
292 information shall include the name and location of each program and the effective date of the  
293 license and or renewal of each program and any related licensing reports;

294           2.)     The annual number of substantiated reports in the aggregate and the number of  
295 said reports per days of care for each facility filed in accordance with section 51A of Chapter  
296 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C  
297 against the program and or its employees, including the annual number of such substantiated  
298 reports per days of care resulting in hospitalization, death, and or criminal charges of which the  
299 defendants were found guilty, provided further that said information shall also include the  
300 number of substantiated reports per days of care that were self-reported by a facility and or its  
301 staff.;

302           3.)     The annual number of substantiated reports in the aggregate and the number of  
303 said reports per days of care for each facility filed in accordance with section 51A of Chapter  
304 119 of the General Laws and substantiated reports filed in accordance with Chapter 19C related  
305 to the use of restraints, provided further that said information shall also include the number of  
306 substantiated reports per days of care that were self-reported by a facility and or its staff;

307           4.)     Annual restraint data in the aggregate and for each facility in the aggregate,  
308 including information regarding the number of injuries related to restraints, provided that the  
309 department shall adequately describe the nature of the patient population and any associated  
310 behaviors for the patient population served in relation to the number of reported restraints for  
311 each licensed facility.



312 The department shall promulgate regulations, subject to chapter 30A, to determine a  
313 process to annually make available on its website the number of incident reports in the aggregate  
314 and for each program that documenting serious incidents as determined by the department where  
315 the health and safety of an individual with disabilities was determined to be at risk.

316 The process to make public and available said information shall be determined in a  
317 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
318 federal Health Insurance Portability and Accountability Act of 1996.

319 Nothing in this section prevents such facility from appealing to the department regarding  
320 the accuracy of the information required to be made available by this section. In an event where  
321 the department is unwilling to make changes to the available information, a facility shall have the  
322 right to include a clarifying statement in the area of the department's website where said  
323 information is made available.

324 In promulgating regulations in accordance with this section, the department shall make  
325 the required information and data available in the aggregate and by private, county or municipal  
326 facility or department or ward or any such facility licensed by the department. Reports for said  
327 individual facilities shall compare the facility to other private, county or municipal facilities or  
328 department or wards or any other such facility licensed by the department according to: (a) the  
329 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said  
330 facility, (d) the population served by said facility and the level of care required by said  
331 population, (e) the number of days of service and the hours of service per day, in the aggregate;  
332 provided further that the department shall also ensure that said regulations comply with state and  
333 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR

334 Part 99. The process to make public and available said information shall be determined in a  
335 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
336 federal Health Insurance Portability and Accountability Act of 1996.

337         There shall be established in accordance with this section a commission established by  
338 the department that shall (1) define the levels of care required by said population as used in the  
339 preceding paragraph, provided that the said levels of care are defined based on factors that  
340 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
341 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,  
342 department and or program staff; and (2) provide recommendations relating to opportunities for  
343 quality improvement by utilizing said information and data required to be made available in  
344 accordance with this section, provided that said commission include one representative from the  
345 department and one administrator or staff member of a private, county or municipal facility or  
346 department or ward or any such facility licensed by the department. Provided further that the  
347 names of any teachers, staff members or other employees who are named in a restraint report  
348 filed in accordance with the regulations shall be considered exempt according to section 10B of  
349 Chapter 66 of the General Laws.

350         SECTION 9. Section 15A of chapter 19B of the General Laws is hereby amended by  
351 adding after clause (f) the following clause:

352         (g) As part of its licensing process, department shall promulgate regulations, subject to  
353 chapter 30A, to determine a process to annually make available and public on a public website or  
354 public database the following information for any private, county or municipal facility or

355 department or ward or any such facility licensed by the department serving any person under the  
356 age of 18 or under the age of 22 if that person is a child with special needs:

357 1.) Information relating to the license of each facility granted by the department. This  
358 information shall include the name and location of each program and the effective date of the  
359 license and or renewal of each program and any related licensing reports;

360 2.) The annual number of substantiated reports in the aggregate and the number of  
361 said reports per days of care for each facility filed in accordance with section 51A of Chapter  
362 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C  
363 against the program and or its employees, including the annual number of such substantiated  
364 reports per days of care resulting in hospitalization, death, and or criminal charges of which the  
365 defendants were found guilty, provided further that said information shall also include the  
366 number of substantiated reports per days of care that were self-reported by a facility and or its  
367 staff;

368 3.) The annual number of substantiated reports in the aggregate and the number of  
369 said reports per days of care for each program filed in accordance with section 51A of Chapter  
370 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C  
371 related to the use of restraints, provided further that said information shall also include the  
372 number of substantiated reports per days of care that were self-reported by a facility and or its  
373 staff;

374 4.) Annual restraint data in the aggregate and for each program licensed, funded by  
375 the department in the aggregate, including information regarding the number of injuries related  
376 to restraints, provided that the department shall adequately describe the nature of the patient

377 population and any associated behaviors for the patient population served in relation to the  
378 number of reported restraints for each licensed facility.

379         The department shall promulgate regulations, subject to chapter 30A, to determine a  
380 process to annually make available on its website the number of incident reports in the aggregate  
381 and for each program that documenting serious incidents as determined by the department where  
382 the health and safety of an individual with disabilities was determined to be at risk.

383         The process to make public and available said information shall be determined in a  
384 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
385 federal Health Insurance Portability and Accountability Act of 1996.

386         Nothing in this section prevents such facility from appealing to the department regarding  
387 the accuracy of the information required to be made available by this section. In an event where  
388 the department is unwilling to make changes to the available information, a facility shall have the  
389 right to include a clarifying statement in the area of the department's website where said  
390 information is made available.

391         In promulgating regulations in accordance with this section, the department shall make  
392 the required information and data available in the aggregate and by private, county or municipal  
393 facility or department or ward or any such facility licensed by the department. Reports for said  
394 individual facilities shall compare the facility to other private, county or municipal facilities or  
395 department or wards or any other such facility licensed by the department according to: (a) the  
396 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said  
397 facility, (d) the population served by said facility and the level of care required by said  
398 population, (e) the number of days of service and the hours of service per day, in the aggregate;

399 provided further that the department shall also ensure that said regulations comply with state and  
400 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR  
401 Part 99. The process to make public and available said information shall be determined in a  
402 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
403 federal Health Insurance Portability and Accountability Act of 1996.

404           There shall be established in accordance with this section a commission established by  
405 the department that shall (1) define the levels of care required by said population as used in the  
406 preceding paragraph, provided that the said levels of care are defined based on factors that  
407 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
408 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,  
409 department and or program staff; and (2) provide recommendations relating to opportunities for  
410 quality improvement by utilizing said information and data required to be made available in  
411 accordance with this section, provided that said commission include one representative from the  
412 department and one administrator or staff member of a private, county or municipal facility or  
413 department or ward or any such facility licensed by the department.

414           Provided further that the names of any teachers, staff members or other employees who  
415 are named in a restraint report filed in accordance with the regulations shall be considered  
416 exempt according to section 10B of Chapter 66 of the General Laws.

417           SECTION 10. Section 4E of chapter 40 of the General Laws is hereby amended by  
418 adding at the end of clause (k) the following:

419           “The department shall make said reviews available on its website and any related  
420 corrective action plan and additional information relative to said reviews available on its  
421 website.”

422           SECTION 11. Section 4E of chapter 40 of the General Laws is hereby amended by  
423 adding at the end of clause (m) the following clause: -

424           (n) The department shall make available on its website annual restraint data for  
425 collaborative programs in the aggregate, including information regarding the number injuries  
426 related to restraints, provided that the department will make this information available in the  
427 aggregate for each collaborative program per days of care on its website, and provided further  
428 that said information shall also include the number of substantiated reports per days of care that  
429 were self-reported by a collaborative program and or its staff and that the department shall  
430 adequately describe the nature of the student population and any associated behaviors for the  
431 student population served in relation to the number of reported restraints. The department shall  
432 ensure said regulations comply with state and federal child and student privacy laws, including  
433 the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be  
434 determined to supersede any regulations and policies of the department relating to the privacy of  
435 a child. The board shall promulgate regulations, subject to chapter 30A, to determine a process  
436 to annually make available on its website the aggregate number of critical incident reports, in the  
437 aggregate and for each program, documenting serious incidents as determined by the department  
438 where the health and safety of a child was determined to be at risk.

439           Nothing in this section prevents a collaborative program from appealing to the  
440 department regarding the accuracy of the information required to be made available by this

441 section. In an event where the department is unwilling to make changes to the available  
442 information, a program shall have the right to include a clarifying statement in the area of the  
443 department's website where said information is made available.

444 In promulgating regulations in accordance with this section, the department shall make  
445 the required information and data available in the aggregate and by individual collaborative  
446 program. Reports for individual collaborative programs shall compare the program to other said  
447 programs according to: (a) the type of program (b) the age, sex and race of applicable student  
448 populations, (c) the type size of such programs, (d) the type of disabilities served by a said  
449 program and the level of care required by said disabilities, (e) the number of days of service and  
450 the hours of service per day, in the aggregate by a collaborative program; provided further that  
451 the department shall also ensure that said regulations comply with state and federal child and  
452 student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing  
453 in this section shall be determined to supersede any regulations and policies of the department  
454 relating to the privacy of a child.

455 There shall be established in accordance with this section a commission established by  
456 the department that shall (1) define the levels of care required by said population as used in the  
457 preceding paragraph, provided that the said levels of care are defined based on factors that  
458 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
459 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,  
460 department and or program staff; and (2) provide recommendations relating to opportunities for  
461 quality improvement by utilizing said information and data required to be made available in  
462 accordance with this section, provided that said commission include one representative from the  
463 following: a representative from the department; a parent of a school age child with a disability

464 as defined by section 1 of chapter 71B of the General Laws; and an administrator or staff  
465 member of a collaborative program responsible for making said information to the department.

466 Provided further that the names of any teachers, staff members or other employees who  
467 are named in a restraint report filed in accordance with the regulations shall be considered  
468 exempt according to section 10B of Chapter 66 of the General Laws.

469 SECTION 12. Section 1B of Chapter 69 of the General Laws is hereby amended by  
470 inserting after the seventh paragraph the following paragraph: -

471 “The board shall annually publish a supplemental report containing student achievement  
472 data for each approved private special education school or program and collaborative program,  
473 provided that such data shall include student performance on the statewide assessment system  
474 approved by the board under section 1I, and provided further that the board shall include in said  
475 report (1) data from the department of elementary and secondary education for each school or  
476 program regarding the nature of the student disability population served and the relationship of  
477 the disability to test score performance; and (2) information regarding school or program size  
478 and student mobility rates for each program along with cautionary language and explanations to  
479 allow parents and the public a means of understanding if the achievement data has any real  
480 comparative value in comparing schools and or programs or from year to year. The board in  
481 publishing said report shall exclude: (1) achievement data from schools with a number of  
482 students that the board has determined does not meet the minimum number of students sufficient  
483 to yield reliable data in accordance with 34 CFR 200.7(2)(i); and (2) achievement data from a  
484 student of an approved private special education school or program or collaborative program  
485 who has been enrolled in said school or program for less than a year in accordance with 34 CFR



486 200.20(d)(2)(3)(1) and (2). The board shall also include information on other student outcome  
487 measures such as rates for student graduation, suspensions, expulsions and drop-outs as are  
488 currently reported by the department of elementary and secondary education in the Individuals  
489 with Disabilities Education Act (IDEA) Part B Annual Performance Plan.”

490 Nothing in this section prevents such schools or programs from appealing to the  
491 department regarding the accuracy of the information required to be made available by this  
492 section. In an event where the department is unwilling to make changes to the available  
493 information, said schools and programs shall have the right to include a clarifying statement in  
494 the area of the department’s website where said information is made available.

495 SECTION 13. Section 1B of chapter 69 of the General Laws is hereby amended by  
496 adding after the twenty-fifth paragraph the following paragraphs: -

497 “In establishing the policies deemed necessary to fulfill the purposes of chapter seventy-  
498 one B, the board shall require the department of elementary and secondary education to make  
499 public on its website information relating to the approval or re-approval of private day and  
500 residential special education school programs. This information shall include the name and  
501 location of each program and the effective date of the approval or re-approval reports, provided  
502 further that said policies shall also require the publishing of annual restraint data in the aggregate  
503 and for each program, including information, in the aggregate and for each program, regarding  
504 the number of injuries related to restraints, provided that the board shall adequately describe the  
505 nature of the student population and any associated behaviors for the student population served  
506 in relation to the number of reported restraints, and provided further that such information  
507 complies with state and federal child and student privacy laws, including the provisions of 20

508 U.S.C. 1232g and 34 CFR Part 99. Nothing in this paragraph shall be determined to supersede  
509 any regulations and policies of the department relating to the privacy of a child. The board shall  
510 promulgate regulations, subject to chapter 30A, to determine a process to annually make  
511 available on its website the aggregate number of critical incident reports, in the aggregate and for  
512 each program, documenting serious incidents as determined by the department where the health  
513 and safety of a child was determined to be at risk.

514 “Nothing in this section prevents such private day and residential special education  
515 school programs from appealing to the department regarding the accuracy of the information  
516 required to be made available by this section. In an event where the department is unwilling to  
517 make changes to the available information, said private day and residential special education  
518 school programs shall have the right to include a clarifying statement in the area of the  
519 department’s website where said information is made available.

520 “In promulgating regulations in accordance with this section, the board shall require the  
521 department to make the required information and data available in the aggregate and by approved  
522 or licensed program type and by individual approved or licensed program. Reports for  
523 individual approved or licensed programs shall compare the program to other approved or  
524 licensed programs according to: (a) the type of program, day or residential or other program type  
525 (b) the age, sex and race of applicable student populations, (c) the type and size of a school or  
526 program licensed, funded or approved by the department, (d) the type of disabilities served by a  
527 school or program and the level of care required by said disabilities, (e) the number of days of  
528 service and the hours of service per day, in the aggregate by a department licensed, funded or  
529 approved school or program; provided further that the department shall also ensure that said  
530 regulations comply with state and federal child and student privacy laws, including the

531 provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be determined  
532 to supersede any regulations and policies of the department relating to the privacy of a child.

533           “There shall be established in accordance with this section a commission established by  
534 the department that shall (1) define the levels of care required by said disabilities as used in the  
535 preceding paragraph, provided that the said levels of care are defined based on factors that  
536 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
537 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,  
538 teachers and school or program staff; and (2) to provide recommendations relating to  
539 opportunities for quality improvement by utilizing said information and data required to be made  
540 available in accordance with this section, provided that said commission include one  
541 representative from the following: a representative from the department; a parent of a school age  
542 child with a disability as defined by section 1 of chapter 71B of the General Laws; and an  
543 administrator or staff member of a school licensed, funded or approved by the department  
544 responsible for making said information to the department.”

545           Provided further that the names of any teachers, staff members or other employees who  
546 are named in a restraint report filed in accordance with the regulations shall be considered  
547 exempt according to section 10B of Chapter 66 of the General Laws.

548           SECTION 14. Chapter 111 of the General Laws is hereby amended by adding after  
549 section 1 the following section: -

550           Section 1A. Public information for certain licensed programs

551           As part of its licensing process, department shall promulgate regulations, subject to  
552 chapter 30A, to determine a process to annually make available and public on a public website or

553 public database the following information for each health care facility defined by section 25B  
554 and each facility defined by section 51H licensed by the department serving any person under the  
555 age of 18 or under the age of 22 if that person is a child with special needs:

556           5.) Information relating to the license of each health care facility and facility granted  
557 by the department. This information shall include the name and location of each program and the  
558 effective date of the license and or renewal of each program and any related licensing reports;  
559 and

560           6.) The annual number of substantiated reports in the aggregate and the number of  
561 said reports per days of care for each health care facility and facility filed in accordance with  
562 section 51A of Chapter 119 of the General Laws and substantiated reports filed in accordance  
563 with section 15 of chapter 19A and Chapter 19C against the program and or its employees,  
564 relating to any use of restraints, including the annual number of such substantiated reports per  
565 days of care resulting in hospitalization, death, and or criminal charges of which the defendants  
566 were found guilty, provided that said information shall also include the number of substantiated  
567 reports per days of care that were self-reported by a facility and or its staff.

568           The process to make public and available said information shall be determined in a  
569 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
570 federal Health Insurance Portability and Accountability Act of 1996.

571           Nothing in this section prevents such health care facilities and facilities from appealing to  
572 the department regarding the accuracy of the information required to be made available by this  
573 section. In an event where the department is unwilling to make changes to the available

574 information, said health care facilities and facilities shall have the right to include a clarifying  
575 statement in the area of the department’s website where said information is made available.

576 SECTION 15. Section 2 of Chapter 123 is hereby amended by adding at the end of the  
577 first paragraph the following paragraphs: -

578 “The department shall promulgate regulations, subject to chapter 30A, to determine a  
579 process to annually make available and public on a public website or public database the  
580 following information for any private, county or municipal facility or department or ward or any  
581 such facility licensed by the department serving any person under the age of 18 or under the age  
582 of 22 if that person is a child with special needs (1) information relating name and location of  
583 each department facility; (2) the annual number of substantiated reports in the aggregate and the  
584 number of said reports per days of care for each facility filed in accordance with section 51A of  
585 Chapter 119 of the General Laws and substantiated reports filed in accordance with section 15 of  
586 Chapter 19A and Chapter 19C against the program and or its employees, including the annual  
587 number of such substantiated reports per days of care resulting in hospitalization, death, and or  
588 criminal charges of which the defendants were found guilty; (3) the annual number of  
589 substantiated reports in the aggregate and the number of said reports per days of care filed in  
590 accordance with section 51A of Chapter 119 of the General Laws and substantiated reports filed  
591 in accordance with section 15 of Chapter 19A and Chapter 19C related to the use of restraints;  
592 and (4) annual restraint data in the aggregate and for each department facility, including  
593 regarding the number of injuries related to restraints, provided that said information shall also  
594 include the number of substantiated reports per days of care that were self-reported by a facility  
595 and or its staff. The department shall adequately describe the nature of the patient population and  
596 any associated behaviors for the patient population served in relation to the number of reported

597 restraints for each facility. The process to make public and available said information shall be  
598 determined in a manner to ensure patient privacy and to comply with state and federal privacy  
599 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

600 “Nothing in this section prevents such facilities from appealing to the department  
601 regarding the accuracy of the information required to be made available by this section. In an  
602 event where the department is unwilling to make changes to the available information, said  
603 facilities shall have the right to include a clarifying statement in the area of the department’s  
604 website where said information is made available.

605 “In promulgating regulations in accordance with this section, the department shall make  
606 the required information and data available in the aggregate and by private, county or municipal  
607 facility or department or ward or any such facility licensed by the department. Reports for said  
608 individual facilities shall compare the facility to other private, county or municipal facilities or  
609 department or wards or any other such facility licensed by the department according to: (a) the  
610 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said  
611 facility, (d) the population served by said facility and the level of care required by said  
612 population, (e) the number of days of service and the hours of service per day, in the aggregate;  
613 provided further that the department shall also ensure that said regulations comply with state and  
614 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR  
615 Part 99. The process to make public and available said information shall be determined in a  
616 manner to ensure patient privacy and to comply with state and federal privacy laws, including the  
617 federal Health Insurance Portability and Accountability Act of 1996.

618           “There shall be established in accordance with this section a commission established by  
619 the department that shall (1) define the levels of care required by said population as used in the  
620 preceding paragraph, provided that the said levels of care are defined based on factors that  
621 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any  
622 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,  
623 department and or program staff; and (2) to provide recommendations relating to opportunities  
624 for quality improvement by utilizing said information and data required to be made available in  
625 accordance with this section, provided that said commission include one representative from the  
626 department and one administrator or staff member of a private, county or municipal facility or  
627 department or ward or any such facility licensed by the department.”

628           Provided further that the names of any teachers, staff members or other employees who  
629 are named in a restraint report filed in accordance with the regulations shall be considered  
630 exempt according to section 10B of Chapter 66 of the General Laws.

631           SECTION 16. Notwithstanding any general or special law to the contrary, the office of  
632 the child advocate, the executive office of education, and the executive office of health and  
633 human services, together with the respective departments of said agencies, shall, by January 1,  
634 2019, determine a process to utilize information included but not limited to that required to be  
635 made available by this act together with the respective licensed, funded and or approved  
636 programs and facilities and administrators and staff of each office and or department to develop  
637 quality improvement professional learning communities within each office and or department,  
638 provided that said professional learning communities shall develop practices and policies to  
639 periodically review the system wide information required to be made public and available by this  
640 act, and provided further that such professional learning communities shall seek to advance

641 professional development and program quality and improvement for the purpose of enhancing  
642 outcomes to improve the care and treatment of children, students, individuals, and individuals  
643 with disabilities in each applicable state funded, licensed or approved program or facility related  
644 to this act.