

HOUSE No. 119

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:	DISTRICT/ADDRESS:
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>

HOUSE No. 119

By Miss Garry of Dracut, a petition (accompanied by bill, House, No. 119) of Colleen M. Garry, David Paul Linsky and Kenneth I. Gordon for legislation to further regulate public transparency in child serving organizations. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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 promulgate regulations, subject to chapter 30A, to determine a process
14 to make available on the department’s website e annual restraint data in the aggregate,
15 information in the aggregate on the number and rate of restraints and injuries related to restraints
16 for schools, charter schools and school districts, including regional school districts, and make
17 this information available in the aggregate for each school, provided that the office shall
18 adequately describe the nature of the student population and any associated behaviors for the
19 student population served in relation to the number of reported restraints, and provided further
20 that the office shall calculate the school’s annual rate of restraints and related injuries based on
21 the schools’ total annual hours of operation multiplied by the total annual student attendance
22 divided by the total annual number of restraints, and provided further that the office shall
23 determine the school’s annual aggregate rate of restraint reduction and provided further that the
24 information required in this paragraph complies with state and federal child and student privacy
25 laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section
26 shall be determined to supersede any regulations and policies of the department relating to the
27 privacy of a child.

28 The office shall promulgate regulations, subject to chapter 30A, to determine a process to
29 annually make available on its website the aggregate number of critical incident investigation
30 reports, in the aggregate, and for each program, documenting serious incidents as determined by
31 the department where the health and safety of a child was determined to be at risk, and provided
32 further that the office shall determine the annual rate of critical incidents in which the health and

33 safety of a child was determined to be at risk based on the school's total annual hours of
34 operation multiplied by the total annual student attendance divided by the total annual number of
35 incident reports documenting serious incidents as determined by the department where the health
36 and safety of a child was determined to be at risk.

37 The office shall promulgate regulations, subject to chapter 30A, to determine a process to
38 annually make available on its website the annual number of substantiated reports in the
39 aggregate and the annual number and rate of said reports for each facility filed in accordance
40 with section 51A of Chapter 119 of the General Laws and substantiated reports filed in
41 accordance with Chapter 19C against the program and or its employees, including the annual
42 number and rate of such substantiated reports resulting in hospitalization, death, and or criminal
43 charges of which the defendants were found guilty, provided that the rate of said reports shall be
44 calculated for each facility by multiplying the total annual hours of operation by the total annual
45 facility attendance divided by the total annual number of reports; and provided further that said
46 information shall also include the annual number and rate of substantiated reports that were self-
47 reported by a facility and or its staff, provided that the rate of said reports shall be calculated for
48 each facility by multiplying the total annual hours of operation by the total annual facility
49 attendance divided by the total annual number of reports.

50 The annual number of substantiated reports in the aggregate and the annual number and
51 rate of said reports for each facility filed in accordance with section 51A of Chapter 119 of the
52 General Laws and such substantiated reports filed in accordance with Chapter 19C related to the
53 use of restraints, provided that the rate of said reports shall be calculated for each facility by
54 multiplying the total annual hours of operation by the total annual facility attendance divided by
55 the total annual number of reports, and provided further that said information shall also include

56 the annual number of substantiated reports that were self-reported by a facility and or its staff,
57 provided that the rate of said reports shall be calculated for each facility by multiplying the total
58 annual hours of operation by the total annual facility attendance divided by the total annual
59 number of reports. “Nothing in this section prevents schools, charter schools and school districts,
60 including regional school districts, from appealing to the office regarding the accuracy of the
61 information required to be made available by this section. In an event where the office is
62 unwilling to make changes to the available information, a school, charter school, school district
63 and regional school district shall have the right to include a clarifying statement in the area of the
64 department’s website where said information is made available.”

65 “In promulgating regulations in accordance with this section, the office shall require the
66 department to make the required information and data available in the aggregate and by school,
67 charter school and school districts, including regional school districts. Reports for schools,
68 charter schools and school districts, including regional school districts shall compare the
69 program to other such schools according to: (a) the type of program (b) the age, sex and race of
70 applicable student populations, (c) the type and number of students enrolled in a school, (d) the
71 type of disabilities served by a school or program and the level of care required by said
72 disabilities, (e) the number of days of service and the hours of service per day, in the aggregate
73 by a school, charter school and school districts, including regional school districts; provided
74 further that the department shall also ensure that said regulations comply with state and federal
75 child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99.
76 Nothing in this section shall be determined to supersede any regulations and policies of the
77 department relating to the privacy of a child.

78 There shall be established in accordance with this section a commission established by
79 the office that shall (1) define the levels of care required by said disabilities as used in the
80 preceding paragraph, provided that the said levels of care are defined based on factors that
81 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
82 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,
83 teachers and school or program staff; and (2) provide recommendations relating to opportunities
84 for quality improvement by utilizing said information and data required to be made available in
85 accordance with this section, provided that said commission include the following: a
86 representative from the department; a parent of a school age child with a disability as defined by
87 section 1 of chapter 71B of the General Laws; and an administrator or staff member of a school,
88 charter school or school district, including a regional school district, responsible for making said
89 information to the department.

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

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

95 Section 7A. Public information for licensed programs

96 a. The department shall promulgate regulations, subject to chapter 30A, to determine
97 a process to annually make available on its website information relating to the license and
98 approval of each department licensed and or funded program. This information shall include the

99 name and location of each program and the effective date of the license and or renewal of each
100 program and any related licensing reports.

101 b. The department shall promulgate regulations, subject to chapter 30A, to determine
102 a process to annually make available on its website the number of critical incident investigation
103 reports in the aggregate and for each program that documents serious incidents as determined by
104 the department where the health and safety of a child was determined to be at risk, and provided
105 further that the department shall determine the annual rate of critical incidents in which the
106 health and safety of a child was determined to be at risk based on the programs' total annual
107 hours of operation multiplied by the total annual program attendance divided by the total annual
108 number of critical incident reports

109 c. The department shall make available on its website annual restraint data in the
110 aggregate and for each program licensed, funded or approved by the department in the aggregate,
111 including information regarding the number and rate of restraints and injuries related to
112 restraints, provided that the department shall adequately describe the nature of the student
113 population and any associated behaviors for the student population served in relation to the
114 number of reported restraints for each program, and provided further that the office shall
115 calculate the program annual rate of restraint and related injuries based on the program's total
116 annual hours of operation multiplied by the total annual program attendance divided by the total
117 annual number of restraints, and provided further that the office shall determine the program's
118 annual aggregate rate of restraint reduction.

119 In promulgating regulations in accordance with this section, the department shall ensure
120 said regulations comply with state and federal child and student privacy laws, including the

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

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

128 In promulgating regulations in accordance with this section, the department shall make
129 the required information and data available in the aggregate and by approved or licensed
130 program type and by individual approved or licensed program. Reports for individual approved
131 or licensed programs shall compare the program to other approved or licensed programs
132 according to: (a) the type of program, day or residential or other program type (b) the age, sex
133 and race of applicable client populations, (c) the type and number of children served by the
134 program licensed, funded or approved by the department, (d) the type of disabilities served by a
135 program and the level of care required by said disabilities, (e) the number of days of service and
136 the hours of service per day, in the aggregate by a department licensed, funded program;
137 provided further that the department shall also ensure that said regulations comply with state and
138 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR
139 Part 99. Nothing in this section shall be determined to supersede any regulations and policies of
140 the department relating to the privacy of a child.

141 There shall be established in accordance with this section a commission established by
142 the department that shall (1) define the levels of care required by said disabilities as used in the

143 preceding paragraph, provided that the said levels of care are defined based on factors that
144 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
145 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,
146 teachers and school or program staff; and (2) provide recommendations relating to opportunities
147 for quality improvement by utilizing said information and data required to be made available in
148 accordance with this section, provided that said commission include: a representative from the
149 department; a parent of a school age child with a disability as defined by section 1 of chapter
150 71B of the General Laws; an administrator or staff member of a school licensed, funded or
151 approved by the department responsible for making said information to the department.

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

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

157 “The department shall promulgate regulations, subject to chapter 30A, to determine a
158 process to annually make available on its website the number of critical incident investigation
159 reports in the aggregate and for each detention center as identified in section 5 of said chapter
160 and any cities towns, public agencies and private nonprofit agencies funded by the department
161 that documents serious incidents as determined by the department where the health and safety of
162 a child or youth was determined to be at risk, and provided further that the department shall
163 determine the annual rate of critical incidents in which the health and safety of a child or youth
164 was determined to be at risk based on the detention center’s total annual hours of operation

165 multiplied by the total annual detention center attendance divided by the total annual number of
166 critical incident reports.

167 “The department shall make available on its website annual restraint data in the aggregate
168 and for each detention center as identified in section 5 of said chapter and any cities towns,
169 public agencies and private nonprofit agencies funded by the department, including information
170 regarding the number and rate of restraints and injuries related to restraints, provided that the
171 department shall adequately describe the nature of the youth population and any associated
172 behaviors for the youth population served in relation to the number of reported restraints for each
173 funded program, and provided further that the department shall calculate the detention center’s
174 annual rate of restraint and related injuries based on the detention center’s total annual hours of
175 operation multiplied by the total annual detention center attendance divided by the total annual
176 number of restraints.

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

182 “Nothing in this section prevents a detention center as identified in section 5 of said
183 chapter and any cities towns, public agencies and private nonprofit agencies funded by the
184 department from appealing to the department regarding the accuracy of the information required
185 to be made available by this section. In an event where the department is unwilling to make
186 changes to the available information, a detention center as identified in section 5 of said chapter

187 and any cities towns, public agencies and private nonprofit agencies funded by the department
188 shall have the right to include a clarifying statement in the area of the department’s website
189 where said information is made available.

190 “In promulgating regulations in accordance with this section, the department shall make
191 the required information and data available in the aggregate and by each detention center as
192 identified in section 5 of said chapter and any cities towns, public agencies and private nonprofit
193 agencies funded by the department. Reports for each detention center as identified in section 5
194 of said chapter and any cities towns, public agencies and private nonprofit agencies funded by
195 the department shall compare each detention center as identified in section 5 of said chapter and
196 any cities towns, public agencies and private nonprofit agencies funded by the department
197 according to: (a) the type of program (b) the age, sex and race of applicable populations, (c) the
198 type and number of children and youth served by a said facility, (d) the population served by said
199 facility and the level of care required by said population, (e) the number of days of service and
200 the hours of service per day, in the aggregate; provided further that the department shall also
201 ensure that said regulations comply with state and federal child and student privacy laws,
202 including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. The process to make public
203 and available said information shall be determined in a manner to ensure patient privacy and to
204 comply with state and federal privacy laws, including the federal Health Insurance Portability
205 and Accountability Act of 1996.

206 “There shall be established in accordance with this section a commission established by
207 the department that shall (1) define the levels of care required by said population as used in the
208 preceding paragraph, provided that the said levels of care are defined based on factors that
209 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any

210 other behaviors that are unsafe or threaten the health and safety of a an individual, his or her
211 peers, department and or program staff; and (2) provide recommendations relating to
212 opportunities for quality improvement by utilizing said information and data required to be made
213 available in accordance with this section, provided that said commission include one
214 representative from the department and one administrator or staff member of a private, county or
215 municipal facility or department or ward or any such facility licensed by the department.”

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

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

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

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

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

228 (i) The child advocate with the executive office of education and the executive office
229 of health and human services shall promulgate regulations, subject to chapter 30A, to determine
230 a process to annually make available and public on a public website or public database the

231 following information for each state funded, approved or licensed program, including public
232 schools, serving a child or a child with special needs under the jurisdiction of each respective
233 executive agency, and provided further that said information be made available for private
234 schools approved pursuant to section 1 of chapter 76 of the General Laws.

235 (1) The annual number of substantiated reports in the aggregate and the annual
236 number and rate of said reports for each program filed in accordance with section 51A of
237 Chapter 119 of the General Laws and any substantiated reports filed in accordance with section
238 15 of Chapter 19A and Chapter 19C against the program and or its employees, including the
239 annual number and rate of said reports resulting in hospitalization, death, and or criminal
240 charges of which the defendants were found guilty, provided that the annual rate of said reports
241 shall be calculated for each program by multiplying the total annual hours of operation by the
242 total annual program attendance divided by the total annual number of reports; and

243 (2) The annual number of substantiated reports in the aggregate and the annual
244 number of said reports per e for each program filed in accordance with section 51A of Chapter
245 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C
246 related to the use of restraints

247 The process to make public and available said information shall be determined in a
248 manner that identifies the total annual number and rate of substantiated reports for each program,
249 and the total annual number and rate of substantiated reports that were self-reported by a
250 program and or its staff, provided that the annual rate of said reports shall be calculated for each
251 program by multiplying the total annual hours of operation by the total annual program
252 attendance divided by the total annual number of reports, and provided further that said process

253 will be determined in a manner to ensure child privacy and the privacy of individuals and clients
254 and shall comply with the provisions of section 12 of chapter 18C of the General Laws and 20
255 U.S.C. 1232g and 34 CFR Part 99.

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

261 (j) The child advocate together with the executive office of education and the
262 executive office of health and human services shall determine the feasibility of recommending
263 proposed regulations or policies that establish a consistent definition of restraint to agencies
264 within said secretariats that fund, license or approve child serving schools, programs or
265 organizations within one year after the effective date of this act; and provided further that the
266 child advocate together with said secretariats within one year after the effective date of this act
267 also issue a report to the governor of the commonwealth, the clerks of the house of
268 representatives and the senate, the chairs of the joint committee on education and the joint
269 committee on children, families and persons with disabilities that details the feasibility of
270 establishing a single online reporting system coordinated between agencies that allows for the
271 reporting of restraints and critical incidents by child serving schools, programs or organizations
272 within the commonwealth.

273

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

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

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

284 2.) The annual number of substantiated reports in the aggregate and the annual
285 number and rate of said reports for each facility filed in accordance with section 51A of Chapter
286 119 of the General Laws and substantiated reports filed in accordance with Chapter 19C against
287 the program and or its employees, including the annual number and rate of such substantiated
288 reports resulting in hospitalization, death, and or criminal charges of which the defendants were
289 found guilty, provided that the rate of said reports shall be calculated for each facility by
290 multiplying the total annual hours of operation by the total annual facility attendance divided by
291 the total annual number of reports; and provided further that said information shall also include
292 the annual number and rate of substantiated reports that were self-reported by a facility and or
293 its staff, provided that the rate of said reports shall be calculated for each facility by multiplying
294 the total annual hours of operation by the total annual facility attendance divided by the total
295 annual number of reports.

296 3.) The annual number of substantiated reports in the aggregate and the annual
297 number and rate of said reports for each facility filed in accordance with section 51A of Chapter
298 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C
299 related to the use of restraints, provided that the rate of said reports shall be calculated for each
300 facility by multiplying the total annual hours of operation by the total annual facility attendance
301 divided by the total annual number of reports, and provided further that said information shall
302 also include the annual number of substantiated reports that were self-reported by a facility and
303 or its staff, provided that the rate of said reports shall be calculated for each facility by
304 multiplying the total annual hours of operation by the total annual facility attendance divided by
305 the total annual number of reports; and

306 4.) Annual restraint data in the aggregate and for each program licensed or funded by
307 the department in the aggregate, including information regarding the number and rate of
308 restraints and injuries related to restraints, provided that the department shall adequately describe
309 the nature of the patient population and any associated behaviors for the patient population
310 served in relation to the number of reported restraints for each licensed facility and provided
311 further that the department shall calculate the program's annual rate of restraint and related
312 injuries based on the program's total annual hours of operation multiplied by the total annual
313 program attendance divided by the total annual number of restraints, and provided further that
314 the office shall determine the facility's annual aggregate rate of restraint reduction.

315 The department shall promulgate regulations, subject to chapter 30A, to determine a
316 process to annually make available on its website the number of critical incident investigation
317 reports in the aggregate and for each program that documenting serious incidents as determined
318 by the department where the health and safety of an individual with disabilities was determined

319 to be at risk , and provided further that the department shall determine the annual rate of critical
320 incidents in which the health and safety of each person under the age of 18 or under the age of
321 22 if that person is a child with special needs was determined to be at risk based on the
322 program's total annual hours of operation multiplied by the total annual program attendance
323 divided by the total annual number of incident reports documenting serious incidents as
324 determined by the department.

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

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

333 In promulgating regulations in accordance with this section, the department shall make
334 the required information and data available in the aggregate and by private, county or municipal
335 facility or department or ward or any such facility licensed by the department. Reports for said
336 individual facilities shall compare the facility to other private, county or municipal facilities or
337 department or wards or any other such facility licensed by the department according to: (a) the
338 type of program (b) the age, sex and race of applicable populations, (c) the type and number of
339 persons under the age of 18 or under the age of 22 if that person is a child with special needs
340 served by said facility, (d) the population served by said facility and the level of care required by

341 said population, (e) the number of days of service and the hours of service per day, in the
342 aggregate; provided further that the department shall also ensure that said regulations comply
343 with state and federal child and student privacy laws, including the provisions of 20 U.S.C.
344 1232g and 34 CFR Part 99. The process to make public and available said information shall be
345 determined in a manner to ensure patient privacy and to comply with state and federal privacy
346 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

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

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

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

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

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

370 2.) The annual number of substantiated reports in the aggregate and the number and
371 rate of said reports provided to each person under the age of 18 or under the age of 22 if that
372 person is a child with special needs for each facility filed in accordance with section 51A of
373 Chapter 119 of the General Laws and such substantiated reports filed in accordance with Chapter
374 19C against the program and or its employees, including the annual number and rate of such
375 substantiated reports resulting in hospitalization, death, and or criminal charges of which the
376 defendants were found guilty, provided further that said information shall also include the
377 number and rate of substantiated reports that were self-reported by a facility and or its staff.,
378 provided that the rate of said reports shall be calculated for each program by multiplying the total
379 annual hours of operation by the total annual program attendance divided by the total annual
380 number of reports ;

381 3.) The annual number of substantiated reports in the aggregate and the number and
382 rate of said reports for each facility filed in accordance with section 51A of Chapter 119 of the
383 General Laws and substantiated reports filed in accordance with Chapter 19C related to the use

384 of restraints, provided further that said information shall also include the number and rate of
385 substantiated reports that were self-reported by a facility and or its staff; provided that the rate of
386 said reports shall be calculated for each program by multiplying the total annual hours of
387 operation by the total annual program attendance divided by the total annual number of reports.

388 4.) Annual restraint data in the aggregate and for each facility in the aggregate,
389 including information regarding the number and rate of restraints and injuries related to
390 restraints, provided that the department shall adequately describe the nature of the patient
391 population and any associated behaviors for the patient population served in relation to the
392 number of reported restraints for each licensed facility, and provided further that the department
393 shall calculate each facility's annual rate of restraint and related injuries based on the facility's
394 total annual hours of operation multiplied by the total annual facility attendance divided by the
395 total annual number of restraints, and provided further that the office shall determine the
396 facility's annual aggregate rate of restraint reduction.

397 The department shall promulgate regulations, subject to chapter 30A, to determine a
398 process to annually make available on its website the number of critical incident investigation
399 reports in the aggregate and for each program that document serious incidents as determined by
400 the department where the health and safety of an individual with disabilities was determined to
401 be at risk. , and provided further that the department shall determine the annual rate of critical
402 incidents in which the health and safety of an individual with disabilities was determined to be at
403 risk based on the programs' total annual hours of operation multiplied by the total annual
404 program attendance divided by the total annual number of critical incident reports.

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

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

413 In promulgating regulations in accordance with this section, the department shall make
414 the required information and data available in the aggregate and by private, county or municipal
415 facility or department or ward or any such facility licensed by the department. Reports for said
416 individual facilities shall compare the facility to other private, county or municipal facilities or
417 department or wards or any other such facility licensed by the department according to: (a) the
418 type of program (b) the age, sex and race of applicable populations, (c) the type and number of
419 individuals with disabilities served by said facility, (d) the population served by said facility and
420 the level of care required by said population, (e) the number of days of service and the hours of
421 service per day, in the aggregate; provided further that the department shall also ensure that said
422 regulations comply with state and federal child and student privacy laws, including the
423 provisions of 20 U.S.C. 1232g and 34 CFR Part 99. The process to make public and available
424 said information shall be determined in a manner to ensure patient privacy and to comply with
425 state and federal privacy laws, including the federal Health Insurance Portability and
426 Accountability Act of 1996.

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

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

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

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

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

450 2.) The annual number of substantiated reports in the aggregate and the number and
451 rate of said reports for each facility filed in accordance with section 51A of Chapter 119 of the
452 General Laws and such substantiated reports filed in accordance with Chapter 19C against the
453 program and or its employees, including the annual number and rate of such substantiated reports
454 resulting in hospitalization, death, and or criminal charges of which the defendants were found
455 guilty, provided further that said information shall also include the number and rate of
456 substantiated reports that were self-reported by a facility and or its staff, provided that the rate of
457 said reports shall be calculated for each facility by multiplying the total annual hours of
458 operation by the total annual facility attendance divided by the total annual number of reports.

459 3.) The annual number of substantiated reports in the aggregate and the number and
460 rate of said reports for each program filed in accordance with section 51A of Chapter 119 of the
461 General Laws and such substantiated reports filed in accordance with Chapter 19C related to the
462 use of restraints, provided further that said information shall also include the number and rate of
463 substantiated reports that were self-reported by a facility and or its staff, provided that the rate of
464 said reports shall be calculated for each program by multiplying the total annual hours of
465 operation by the total annual program attendance divided by the total annual number of reports

466 4.) Annual restraint data in the aggregate and for each program licensed, funded by
467 the department in the aggregate, including information regarding the number and rate of
468 restraints and injuries related to restraints, provided that the department shall adequately

469 describe the nature of the patient population and any associated behaviors for the patient
470 population served in relation to the number of reported restraints for each licensed facility, and
471 provided further that the department shall calculate each program's annual rate of restraints and
472 injuries based on the program's total annual hours of operation multiplied by the total annual
473 facility attendance divided by the total annual number of restraints, and provided further that the
474 office shall determine the program's annual aggregate rate of restraint reduction.

475 The department shall promulgate regulations, subject to chapter 30A, to determine a
476 process to annually make available on its website the number of critical incident investigation
477 reports in the aggregate and the number and rate of critical incident investigation reports for each
478 program documenting serious incidents as determined by the department where the health and
479 safety of an individual with disabilities was determined to be at risk, and provided further that
480 the department shall determine the annual rate of critical incidents in which the health and safety
481 of an individual with disabilities was determined to be at risk based on the programs' total
482 annual hours of operation multiplied by the total annual program attendance divided by the total
483 annual number of incident reports.

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

487 Nothing in this section prevents such facility from appealing to the department regarding
488 the accuracy of the information required to be made available by this section. In an event where
489 the department is unwilling to make changes to the available information, a facility shall have the

490 right to include a clarifying statement in the area of the department's website where said
491 information is made available.

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

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

513 department and one administrator or staff member of a private, county or municipal facility or
514 department or ward or any such facility licensed by the department.

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

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

520 “The department shall make said reviews available on its website and any related
521 corrective action plan and additional information relative to said reviews available on its
522 website.”

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

525 (n) The department shall promulgate regulations, subject to chapter 30A, to determine a
526 process to make available on the department’s website annual restraint data for collaborative
527 programs in the aggregate, including information regarding the number and rate of restraints and
528 injuries related to restraints, provided that the department will make this information available in
529 the aggregate for each collaborative program, and provided further that the department shall
530 calculate the collaborative’s annual rate of restraint and related injuries based on the
531 collaborative’s total annual hours of operation multiplied by the total annual student attendance
532 divided by the total annual number of restraints, and provided further that the office shall
533 determine the collaborative’s annual aggregate rate of restraint reduction, and provided further
534 that the department shall adequately describe the nature of the student population and any

535 associated behaviors for the student population served in relation to the number of reported
536 restraints. The department shall ensure said regulations comply with state and federal child and
537 student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing
538 in this section shall be determined to supersede any regulations and policies of the department
539 relating to the privacy of a child.

540 The department shall promulgate regulations, subject to chapter 30A, to determine a
541 process to annually make available on its website the aggregate number and rate of critical
542 incident investigation reports, in the aggregate and for each program, documenting serious
543 incidents as determined by the department where the health and safety of a student was
544 determined to be at risk, and provided further that the department shall determine the annual rate
545 of critical incidents based on the school's total annual hours of operation multiplied by the total
546 annual student attendance divided by the total annual number of critical incident reports

547 The office shall promulgate regulations, subject to chapter 30A, to determine a process to
548 annually make available on its website the annual number of substantiated reports in the
549 aggregate and the annual number and rate of said reports for each collaborative filed in
550 accordance with section 51A of Chapter 119 of the General Laws and substantiated reports filed
551 in accordance with Chapter 19C against the collaborative and or its employees, including the
552 annual number and rate of such substantiated reports resulting in hospitalization, death, and or
553 criminal charges of which the defendants were found guilty, provided that the rate of said reports
554 shall be calculated for each collaborative by multiplying the total annual hours of operation by
555 the total annual student attendance divided by the total annual number of reports; and provided
556 further that said information shall also include the annual number and rate of substantiated
557 reports that were self-reported by a collaborative and or its staff, provided that the rate of said

558 reports shall be calculated for each collaborative by multiplying the total annual hours of
559 operation by the total annual student attendance divided by the total annual number of reports.

560 The annual number of substantiated reports in the aggregate and the annual number and
561 rate of said reports for each collaborative filed in accordance with section 51A of Chapter 119 of
562 the General Laws and such substantiated reports filed in accordance with Chapter 19C related to
563 the use of restraints, provided that the rate of said reports shall be calculated for each
564 collaborative by multiplying the total annual hours of operation by the total annual student
565 attendance divided by the total annual number of reports, and provided further that said
566 information shall also include the annual number of substantiated reports that were self-reported
567 by a collaborative and or its staff, provided that the rate of said reports shall be calculated for
568 each collaborative by multiplying the total annual hours of operation by the total annual facility
569 attendance divided by the total annual number of reports.

570 Nothing in this section prevents a collaborative program from appealing to the
571 department regarding the accuracy of the information required to be made available by this
572 section. In an event where the department is unwilling to make changes to the available
573 information, a program shall have the right to include a clarifying statement in the area of the
574 department's website where said information is made available.

575 In promulgating regulations in accordance with this section, the department shall make
576 the required information and data available in the aggregate and by individual collaborative
577 program. Reports for individual collaborative programs shall compare the program to other said
578 programs according to: (a) the type of program (b) the age, sex and race of applicable student
579 populations, (c) the type and size of student enrollment of such programs, (d) the type of

580 disabilities served by a said program and the level of care required by said disabilities, (e) the
581 number of days of service and the hours of service per day, in the aggregate by a collaborative
582 program; provided further that the department shall also ensure that said regulations comply with
583 state and federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and
584 34 CFR Part 99. Nothing in this section shall be determined to supersede any regulations and
585 policies of the department relating to the privacy of a child.

586 There shall be established in accordance with this section a commission established by
587 the department that shall (1) define the levels of care required by said population as used in the
588 preceding paragraph, provided that the said levels of care are defined based on factors that
589 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
590 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,
591 department and or program staff; and (2) provide recommendations relating to opportunities for
592 quality improvement by utilizing said information and data required to be made available in
593 accordance with this section, provided that said commission include one representative from the
594 following: a representative from the department; a parent of a school age child with a disability
595 as defined by section 1 of chapter 71B of the General Laws; and an administrator or staff
596 member of a collaborative program responsible for making said information to the department.

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

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

602 “The board shall annually publish a supplemental report containing student achievement
603 data for each approved private special education school or program and collaborative program,
604 provided that such data shall include student performance on the statewide assessment system
605 approved by the board under section 11, and provided further that the board shall include in said
606 report (1) data from the department of elementary and secondary education for each school or
607 program regarding the nature of the student disability population served and the relationship of
608 the disability to test score performance; and (2) information regarding school or program size
609 and student mobility rates for each program along with cautionary language and explanations to
610 allow parents and the public a means of understanding if the achievement data has any real
611 comparative value in comparing schools and or programs or from year to year. The board in
612 publishing said report shall exclude: (1) achievement data from schools with a number of
613 students that the board has determined does not meet the minimum number of students sufficient
614 to yield reliable data in accordance with 34 CFR 200.7(2)(i); and (2) achievement data from a
615 student of an approved private special education school or program or collaborative program
616 who has been enrolled in said school or program for less than a year in accordance with 34 CFR
617 200.20(d)(2)(3)(1) and (2). The board shall also include information on other student outcome
618 measures such as rates for student graduation, suspensions, expulsions and drop-outs as are
619 currently reported by the department of elementary and secondary education in the Individuals
620 with Disabilities Education Act (IDEA) Part B Annual Performance Plan.”

621 Nothing in this section prevents such schools or programs from appealing to the
622 department regarding the accuracy of the information required to be made available by this
623 section. In an event where the department is unwilling to make changes to the available

624 information, said schools and programs shall have the right to include a clarifying statement in
625 the area of the department’s website where said information is made available.

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

628 “In establishing the policies deemed necessary to fulfill the purposes of chapter seventy-
629 one B, the board shall require the department of elementary and secondary education to make
630 public on its website information relating to the approval or reapproval of private day and
631 residential special education school programs. This information shall include the name and
632 location of each program and the effective date of the approval or reapproval reports, provided
633 further that said policies shall also require the publishing of annual restraint data in the aggregate
634 and for each program, including information, in the aggregate and for each program, regarding
635 the number of injuries related to restraints, provided that the board shall adequately describe the
636 nature of the student population and any associated behaviors for the student population served
637 in relation to the number of reported restraints, and provided further that such information
638 complies with state and federal child and student privacy laws, including the provisions of 20
639 U.S.C. 1232g and 34 CFR Part 99. Nothing in this paragraph shall be determined to supersede
640 any regulations and policies of the department relating to the privacy of a child. The board shall
641 promulgate regulations, subject to chapter 30A, to determine a process to annually make
642 available on its website the aggregate number of critical incident reports, in the aggregate and for
643 each program, documenting serious incidents as determined by the department where the health
644 and safety of a child was determined to be at risk.

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

651 “In promulgating regulations in accordance with this section, the board shall require the
652 department to make the required information and data available in the aggregate and by approved
653 or licensed program type and by individual approved or licensed program. Reports for
654 individual approved or licensed programs shall compare the program to other approved or
655 licensed programs according to: (a) the type of program, day or residential or other program type
656 (b) the age, sex and race of applicable student populations, (c) the type and size of the student
657 enrollment of a school or program licensed, funded or approved by the department, (d) the type
658 of disabilities served by a school or program and the level of care required by said disabilities,
659 (e) the number of days of service and the hours of service per day, in the aggregate by a
660 department licensed, funded or approved school or program; provided further that the department
661 shall also ensure that said regulations comply with state and federal child and student privacy
662 laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section
663 shall be determined to supersede any regulations and policies of the department relating to the
664 privacy of a child.

665 “There shall be established in accordance with this section a commission established by
666 the department that shall (1) define the levels of care required by said disabilities as used in the
667 preceding paragraph, provided that the said levels of care are defined based on factors that

668 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
669 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,
670 teachers and school or program staff; and (2) to provide recommendations relating to
671 opportunities for quality improvement by utilizing said information and data required to be made
672 available in accordance with this section, provided that said commission include one
673 representative from the following: a representative from the department; a parent of a school age
674 child with a disability as defined by section 1 of chapter 71B of the General Laws; and an
675 administrator or staff member of a school licensed, funded or approved by the department
676 responsible for making said information to the department.”

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

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

682 Section 1A. Public information for certain licensed programs

683 As part of its licensing process, department shall promulgate regulations, subject to
684 chapter 30A, to determine a process to annually make available and public on a public website or
685 public database the following information for each health care facility defined by section 25B
686 and each facility defined by section 51H licensed by the department serving any person under the
687 age of 18 or under the age of 22 if that person is a child with special needs:

688 1.) Information relating to the license of each health care facility and facility granted
689 by the department. This information shall include the name and location of each program and the

690 effective date of the license and or renewal of each program and any related licensing reports;
691 and

692 2.) Annual restraint data in the aggregate and for each facility in the aggregate,
693 including information regarding the number and rate of restraints and injuries related to
694 restraints, provided that the department shall adequately describe the nature of the patient
695 population and any associated behaviors for the patient population served in relation to the
696 number of reported restraints for each licensed facility, and provided further that the department
697 shall calculate each facility's annual rate of restraint and related injuries based on the facility's
698 total annual hours of operation multiplied by the total annual facility attendance divided by the
699 total annual number of restraints, and provided further that the office shall determine the
700 facility's annual aggregate rate of restraint reduction.

701 3.) The annual number of substantiated reports in the aggregate and the annual
702 number and rate of said reports for each health care facility and facility filed in accordance with
703 section 51A of Chapter 119 of the General Laws and substantiated reports filed in accordance
704 with section 15 of chapter 19A and Chapter 19C against the program and or its employees,
705 relating to any use of restraints, including the annual number and rate of such substantiated
706 reports resulting in hospitalization, death, and or criminal charges of which the defendants were
707 found guilty, provided that said information shall also include the number of substantiated
708 reports that were self-reported by a facility and or its staff, provided that the rate of said reports
709 shall be calculated for each facility by multiplying the total annual hours of operation by the total
710 annual facility attendance divided by the total annual number of reports.

711 4.) The aggregate number and rate of critical incident investigation reports, in the
712 aggregate and for each program, documenting serious incidents as determined by the department
713 where the health and safety of a person under the age of 18 or under the age of 22 if that person
714 is a child with special needs was determined to be at risk, and provided further that the
715 department shall determine the rate of critical incidents by multiplying the total annual hours of
716 operation by the total annual facility attendance divided by the total annual number of reports.

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

720 Nothing in this section prevents such health care facilities and facilities from appealing to
721 the department regarding the accuracy of the information required to be made available by this
722 section. In an event where the department is unwilling to make changes to the available
723 information, said health care facilities and facilities shall have the right to include a clarifying
724 statement in the area of the department's website where said information is made available.

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

727 "The department shall promulgate regulations, subject to chapter 30A, to determine a
728 process to annually make available and public on a public website or public database the
729 following information for any private, county or municipal facility or department or ward or any
730 such facility licensed by the department serving any person under the age of 18 or under the age
731 of 22 if that person is a child with special needs (1) information relating name and location of
732 each department facility; (2) the annual number of substantiated reports in the aggregate and the

733 number and rate of said reports for each facility filed in accordance with section 51A of Chapter
734 119 of the General Laws and substantiated reports filed in accordance with section 15 of Chapter
735 19A and Chapter 19C against the program and or its employees, including the annual number
736 and rate of such substantiated reports resulting in hospitalization, death, and or criminal charges
737 of which the defendants were found guilty; (3) the annual number and rate of substantiated
738 reports in the aggregate and the number of said reports filed in accordance with section 51A of
739 Chapter 119 of the General Laws and substantiated reports filed in accordance with section 15 of
740 Chapter 19A and Chapter 19C related to the use of restraints; and (4) annual restraint data in the
741 aggregate and for each department facility, including regarding the number and rate of restraints
742 and injuries related to restraints, provided that said information shall also include the number
743 and rate of substantiated reports that were self-reported by a facility and or its staff, provided
744 that the rate of all said reports required by this section shall be calculated for each facility by
745 multiplying the total annual hours of operation by the total annual facility attendance divided by
746 the total annual number of reports; and that the annual aggregate rate of restraint reduction shall
747 be determined for each facility; and (5) the aggregate number of critical incident investigation
748 reports, in the aggregate and for each program, documenting serious incidents as determined by
749 the department where the health and safety of a person under the age of 18 or under the age of 22
750 if that person is a child with special needs was determined to be at risk, and provided further that
751 the department shall determine the rate of critical incidents in which the health and safety of a
752 person under the age of 18 or under the age of 22 if that person is a child with special needs was
753 determined to be at risk by multiplying the total annual hours of operation by the total annual
754 facility attendance divided by the total annual number of reports.

755 . The department shall adequately describe the nature of the patient population and any
756 associated behaviors for the patient population served in relation to the number of reported
757 restraints for each facility. The process to make public and available said information shall be
758 determined in a manner to ensure patient privacy and to comply with state and federal privacy
759 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

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

765 “In promulgating regulations in accordance with this section, the department shall make
766 the required information and data available in the aggregate and by private, county or municipal
767 facility or department or ward or any such facility licensed by the department. Reports for said
768 individual facilities shall compare the facility to other private, county or municipal facilities or
769 department or wards or any other such facility licensed by the department according to: (a) the
770 type of program (b) the age, sex and race of applicable populations, (c) the type and number of
771 the patient population served by said facility, (d) the population served by said facility and the
772 level of care required by said population, (e) the number of days of service and the hours of
773 service per day, in the aggregate; provided further that the department shall also ensure that said
774 regulations comply with state and federal child and student privacy laws, including the
775 provisions of 20 U.S.C. 1232g and 34 CFR Part 99. The process to make public and available
776 said information shall be determined in a manner to ensure patient privacy and to comply with

777 state and federal privacy laws, including the federal Health Insurance Portability and
778 Accountability Act of 1996.

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

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

792 SECTION 16. Notwithstanding any general or special law to the contrary, the office of
793 the child advocate, the executive office of education, and the executive office of health and
794 human services, together with the respective departments of said agencies, shall, by January 1,
795 2020, determine a process to utilize information included but not limited to that required to be
796 made available by this act together with the respective licensed, funded and or approved
797 programs and facilities and administrators and staff of each office and or department to develop
798 quality improvement professional learning communities within each office and or department,

799 provided that said professional learning communities shall develop practices and policies to
800 periodically review the system wide information required to be made public and available by this
801 act, and provided further that such professional learning communities shall seek to advance
802 professional development and program quality and improvement for the purpose of enhancing
803 outcomes to improve the care and treatment of children, students, individuals, and individuals
804 with disabilities in each applicable state funded, licensed or approved program or facility related
805 to this act.