

SENATE No. 54

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/30/2019</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>1/31/2019</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>1/31/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>2/1/2019</i>

SENATE No. 54

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 54) of John F. Keenan, Anne M. Gobi, Patrick M. O'Connor, Paul K. Frost and other members of the General Court for legislation to enhance public transparency to support quality care outcomes in all 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, as appearing in the 2016
2 Official Edition, is hereby amended by adding after the ninth paragraph the following
3 paragraph:-

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

9 SECTION 2. Section 55A of chapter 15 of the General Laws, as appearing in the 2016
10 Official Edition, is hereby amended after the fifth paragraph by adding the following
11 paragraphs:-

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

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

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

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

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

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

58 the annual number of substantiated reports that were self-reported by a facility and or its staff,
59 provided that the rate of said reports shall be calculated for each facility by multiplying the total
60 annual hours of operation by the total annual facility attendance divided by the total annual
61 number of reports.

62 Nothing in this section prevents schools, charter schools and school districts, including
63 regional school districts, from appealing to the office regarding the accuracy of the information
64 required to be made available by this section. In an event where the office is unwilling to make
65 changes to the available information, a school, charter school, school district and regional school
66 district shall have the right to include a clarifying statement in the area of the department's
67 website where said information is made available.

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

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

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

96 SECTION 3. Chapter 15D of the General Laws, as appearing in the 2016 Official
97 Edition, is hereby amended by adding after section 7, the following section:-

98 Section 7A. (a) The department shall promulgate regulations, subject to chapter 30A, to
99 determine a process to annually make available on its website information relating to the license
100 and approval of each department licensed and or funded program . This information shall include
101 the name and location of each program and the effective date of the license and or renewal of
102 each program and any related licensing reports.

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

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

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

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

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

143 There shall be established in accordance with this section a commission established by
144 the department that shall (1) define the levels of care required by said disabilities as used in the
145 preceding paragraph, provided that the said levels of care are defined based on factors that
146 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
147 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,

148 teachers and school or program staff; and (2) provide recommendations relating to opportunities
149 for quality improvement by utilizing said information and data required to be made available in
150 accordance with this section, provided that said commission include: a representative from the
151 department; a parent of a school age child with a disability as defined by section 1 of chapter
152 71B of the General Laws; an administrator or staff member of a school licensed, funded or
153 approved by the department responsible for making said information to the department.

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

157 SECTION 4. Section 1 of chapter 18A of the General Laws, as appearing in the 2016
158 Official Edition, is hereby amended by inserting after the second paragraph the following
159 paragraphs:-

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

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

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

185 Nothing in this section prevents a detention center as identified in section 5 of said
186 chapter and any cities towns, public agencies and private nonprofit agencies funded by the
187 department from appealing to the department regarding the accuracy of the information required
188 to be made available by this section. In an event where the department is unwilling to make
189 changes to the available information, a detention center as identified in section 5 of said chapter
190 and any cities towns, public agencies and private nonprofit agencies funded by the department
191 shall have the right to include a clarifying statement in the area of the department's website
192 where said information is made available.

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

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

216 available in accordance with this section, provided that said commission include one
217 representative from the department and one administrator or staff member of a private, county or
218 municipal facility or department or ward or any such facility licensed by the department.”

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

222 SECTION 5. Section 1 of chapter 18C of the General Laws, as appearing in the 2016
223 Official Edition, is hereby amended by inserting the following definitions:-

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

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

229 SECTION 6. Section 5 of chapter 18C of the General Laws, as so appearing, is hereby
230 amended after clause (h) by adding the following two clauses:-

231 (i) The child advocate with the executive office of education and the executive office of
232 health and human services shall promulgate regulations, subject to chapter 30A, to determine a
233 process to annually make available and public on a public website or public database the
234 following information for each state funded, approved or licensed program, including public
235 schools, serving a child or a child with special needs under the jurisdiction of each respective

236 executive agency, and provided further that said information be made available for private
237 schools approved pursuant to section 1 of chapter 76 of the General Laws.

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

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

250 The process to make public and available said information shall be determined in a
251 manner that identifies the total annual number and rate of substantiated reports for each program,
252 and the total annual number and rate of substantiated reports that were self-reported by a
253 program and or its staff, provided that the annual rate of said reports shall be calculated for each
254 program by multiplying the total annual hours of operation by the total annual program
255 attendance divided by the total annual number of reports, and provided further that said process
256 will be determined in a manner to ensure child privacy and the privacy of individuals and clients

257 and shall comply with the provisions of section 12 of chapter 18C of the General Laws and 20
258 U.S.C. 1232g and 34 CFR Part 99.

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

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

275 SECTION 7. Section 19 of chapter 19 of the General Laws, as appearing in the 2016
276 Official Edition, is hereby amended by adding after clause (g) following clause:-

277 (h) As part of its licensing process, the department shall promulgate regulations, subject
278 to chapter 30A, to determine a process to annually make available and public on a public website

279 or public database the following information for any private, county or municipal facility or
280 department or ward or any such facility licensed by the department serving any person under the
281 age of 18 or under the age of 22 if that person is a child with special needs:

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

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

297 (3) The annual number of substantiated reports in the aggregate and the annual number
298 and rate of said reports for each facility filed in accordance with section 51A of Chapter 119 of
299 the General Laws and such substantiated reports filed in accordance with Chapter 19C related to
300 the use of restraints, provided that the rate of said reports shall be calculated for each facility by

301 multiplying the total annual hours of operation by the total annual facility attendance divided by
302 the total annual number of reports, and provided further that said information shall also include
303 the annual number of substantiated reports that were self-reported by a facility and or its staff,
304 provided that the rate of said reports shall be calculated for each facility by multiplying the total
305 annual hours of operation by the total annual facility attendance divided by the total annual
306 number of reports; and

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

316 The department shall promulgate regulations, subject to chapter 30A, to determine a
317 process to annually make available on its website the number of critical incident investigation
318 reports in the aggregate and for each program that documenting serious incidents as determined
319 by the department where the health and safety of an individual with disabilities was determined
320 to be at risk , and provided further that the department shall determine the annual rate of critical
321 incidents in which the health and safety of each person under the age of 18 or under the age of
322 22 if that person is a child with special needs was determined to be at risk based on the
323 program's total annual hours of operation multiplied by the total annual program attendance

324 divided by the total annual number of incident reports documenting serious incidents as
325 determined by the department.

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

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

334 In promulgating regulations in accordance with this section, the department shall make
335 the required information and data available in the aggregate and by private, county or municipal
336 facility or department or ward or any such facility licensed by the department. Reports for said
337 individual facilities shall compare the facility to other private, county or municipal facilities or
338 department or wards or any other such facility licensed by the department according to: (a) the
339 type of program (b) the age, sex and race of applicable populations, (c) the type and number of
340 persons under the age of 18 or under the age of 22 if that person is a child with special needs
341 served by said facility, (d) the population served by said facility and the level of care required by
342 said population, (e) the number of days of service and the hours of service per day, in the
343 aggregate; provided further that the department shall also ensure that said regulations comply
344 with state and federal child and student privacy laws, including the provisions of 20 U.S.C.
345 1232g and 34 CFR Part 99. The process to make public and available said information shall be

346 determined in a manner to ensure patient privacy and to comply with state and federal privacy
347 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

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

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

361 SECTION 8. Section 15 of chapter 19B of the General Laws, as appearing in the 2016
362 Official Edition, is hereby amended by adding after clause (g) the following clause:-

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

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

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

381 (3)The annual number of substantiated reports in the aggregate and the number and rate
382 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, including
389 information regarding the number and rate of restraints and injuries related to restraints, provided

390 that the department shall adequately describe the nature of the patient population and any
391 associated behaviors for the patient population served in relation to the number of reported
392 restraints for each licensed facility, and provided further that the department shall calculate each
393 facility's annual rate of restraint and related injuries based on the facility's total annual hours of
394 operation multiplied by the total annual facility attendance divided by the total annual number of
395 restraints, and provided further that the office shall determine the facility's annual aggregate rate
396 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, as so appearing, is
441 hereby amended by adding after clause (f) the following clause:-

442 (g) As part of its licensing process, the department shall promulgate regulations, subject
443 to chapter 30A, to determine a process to annually make available and public on a public website
444 or 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 rate
451 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 rate
460 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 the
467 department in the aggregate, including information regarding the number and rate of restraints
468 and injuries related to restraints, provided that the department shall adequately describe the
469 nature of the patient population and any associated behaviors for the patient population served in
470 relation to the number of reported restraints for each licensed facility, and provided further that
471 the department shall calculate each program's annual rate of restraints and injuries based on the
472 program's total annual hours of operation multiplied by the total annual facility attendance
473 divided by the total annual number of restraints, and provided further that the office shall
474 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, as appearing in the 2016
519 Official Edition, is hereby amended by 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 website.

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

524 (n) The department shall promulgate regulations, subject to chapter 30A, to determine a
525 process to make available on the department's website annual restraint data for collaborative
526 programs in the aggregate, including information regarding the number and rate of restraints and
527 injuries related to restraints, provided that the department will make this information available in
528 the aggregate for each collaborative program, and provided further that the department shall
529 calculate the collaborative's annual rate of restraint and related injuries based on the
530 collaborative's total annual hours of operation multiplied by the total annual student attendance
531 divided by the total annual number of restraints, and provided further that the office shall
532 determine the collaborative's annual aggregate rate of restraint reduction, and provided further
533 that the department shall adequately describe the nature of the student population and any
534 associated behaviors for the student population served in relation to the number of reported
535 restraints. The department shall ensure said regulations comply with state and federal child and
536 student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing
537 in this section shall be determined to supersede any regulations and policies of the department
538 relating to the privacy of a child.

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

544 of critical incidents based on the school's total annual hours of operation multiplied by the total
545 annual student attendance divided by the total annual number of critical incident reports

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

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

567 each collaborative by multiplying the total annual hours of operation by the total annual facility
568 attendance divided by the total annual number of reports.

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

574 In promulgating regulations in accordance with this section, the department shall make
575 the required information and data available in the aggregate and by individual collaborative
576 program. Reports for individual collaborative programs shall compare the program to other said
577 programs according to: (a) the type of program (b) the age, sex and race of applicable student
578 populations, (c) the type and size of student enrollment of such programs, (d) the type of
579 disabilities served by a said program and the level of care required by said disabilities, (e) the
580 number of days of service and the hours of service per day, in the aggregate by a collaborative
581 program; provided further that the department shall also ensure that said regulations comply with
582 state and federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and
583 34 CFR Part 99. Nothing in this section shall be determined to supersede any regulations and
584 policies of the department relating to the privacy of a child.

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

589 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,
590 department and or program staff; and (2) provide recommendations relating to opportunities for
591 quality improvement by utilizing said information and data required to be made available in
592 accordance with this section, provided that said commission include one representative from the
593 following: a representative from the department; a parent of a school age child with a disability
594 as defined by section 1 of chapter 71B of the General Laws; and an administrator or staff
595 member of a collaborative program responsible for making said information to the department.

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

599 SECTION 12. Section 1B of Chapter 69 of the General Laws, as appearing in the 2016
600 Official Edition, is hereby amended by inserting after the seventh paragraph the following
601 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 1I, 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, as so appearing, is hereby
627 amended by 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 school
646 programs from appealing to the department regarding the accuracy of the information required to
647 be made available by this section. In an event where the department is unwilling to make
648 changes to the available information, said private day and residential special education school
649 programs shall have the right to include a clarifying statement in the area of the department's
650 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, as appearing in the 2016 Official
681 Edition, is hereby amended by adding after 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 by
689 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, including
693 information regarding the number and rate of restraints and injuries related to restraints, provided
694 that the department shall adequately describe the nature of the patient population and any
695 associated behaviors for the patient population served in relation to the number of reported
696 restraints for each licensed facility, and provided further that the department shall calculate each
697 facility's annual rate of restraint and related injuries based on the facility's total annual hours of
698 operation multiplied by the total annual facility attendance divided by the total annual number of

699 restraints, and provided further that the office shall determine the facility's annual aggregate rate
700 of restraint reduction.

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