

HOUSE No. 146

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

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 ensuring access to behavioral health services for children involved with state agencies.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/20/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>1/23/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>3/2/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>3/20/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>4/23/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>5/17/2023</i>
<i>William F. MacGregor</i>	<i>10th Suffolk</i>	<i>1/29/2024</i>

HOUSE No. 146

By Representative Decker of Cambridge, a petition (accompanied by bill, House, No. 146) of Marjorie C. Decker, Samantha Montañó and David Paul Linsky relative to ensuring access to behavioral health services for children involved with state agencies. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act ensuring access to behavioral health services for children involved with state agencies.

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 21 of chapter 19 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out the fifth sentence and inserting in place
3 thereof the following two sentences:-

4 Pursuant to such agreements the department of mental health shall assume responsibility
5 for individuals requiring specialized mental health services, including, but not limited to,
6 inpatient mental health services, community-based acute treatment, intensive community-based
7 acute treatment, mobile crisis intervention, intensive residential treatment programs, and crisis
8 stabilization services. Pursuant to such agreements the department of mental health may assume
9 responsibility for the provision of other non-mental health services to the department of
10 developmental services.

11 SECTION 2. Section 33C of chapter 119 of the General Laws, as so appearing, is hereby
12 amended by inserting after subsection (b) the following four new subsections: -

13 (c) The department, in consultation with the department of public health and the
14 department of mental health, shall develop a model emergency response plan that includes both
15 medical and behavioral health crisis response in order to promote best practices for congregate
16 care settings, including clear guidelines for the roles and responsibilities of staff in congregate
17 care settings, including but not limited to, protocols to access mobile crisis intervention, and,
18 where applicable, youth crisis stabilization services, and community-based mental health
19 providers; provided, however, that such model plan shall be designed to limit referrals to law
20 enforcement in congregate care settings to cases in which an imminent risk of death or serious
21 physical, emotional, or mental harm to individuals or damage to congregate care property
22 necessitates such referral.

23 The model plan shall be made available to all congregate care settings, provided the
24 department shall support the congregate care setting in adapting said plan for implementation. In
25 developing the model plan, the department shall consult with the department of mental health,
26 the department of public health, the executive office of health and human services, the office of
27 the child advocate, and other relevant organizations that identify the essential components of an
28 emergency response plan. The department shall biennially review and update the model plan,
29 publicly post the model plan on its website, and provide technical assistance to congregate care
30 settings to review and implement changes to model emergency response plan. The model plan
31 shall include, but not be limited to, required access to training in behavioral health for staff in
32 behavioral and mental health competencies, including, but not limited to, de-escalation
33 strategies, trauma-informed, culturally, and linguistically congruent care, suicide prevention,

34 peer support, and available resources and methods of outreach to non-clinical and clinical
35 services related to behavioral and mental health.

36 (d) A congregate care program under contract to provide foster care to children in the
37 care or custody of the department, in consultation with the department, shall ensure the
38 implementation

39 of an emergency response plan for said setting; provided the congregate care program
40 may adapt the department's model emergency response plan to fit the needs of the setting;
41 provided further, the congregate care program shall biennially review the plan. The plan shall be
42 made available to the department upon request.

43 (e) A child in the care or custody of the department has the right to return to their
44 congregate care program under contract to provide foster care to children in the care or custody
45 of the department following a medical or non-medical leave of absence if it is determined
46 appropriate for the child to return to the congregate care setting. The department shall reimburse,
47 at the prevailing rate of reimbursement, the congregate care program to hold the bed of a child
48 for each day of their hospitalization or other leave of absence from the program.

49 (f) If a child requires care in another setting, including, but not limited to an emergency
50 department visit or a stay in an inpatient setting, community behavioral health center, intensive
51 community based acute treatment, community based acute treatment, or community crisis
52 stabilization, a congregate care program, under contract to provide foster care to children in the
53 care or custody of the department, shall not refuse to readmit a child living in that congregate
54 care program after a medical or non-medical leave of absence, including an emergency or acute
55 behavioral or psychiatric circumstance, provided that the child has been determined medically

56 and psychiatrically stable and provided further, it is appropriate for the child to be discharged to
57 return to their congregate care program. A congregate care program may deny readmission to a
58 child whose needs have been determined by the program's director or clinical director to exceed
59 the program's capability at the time readmission is sought; provided the program reports the
60 denial of readmission of the child to said program to the department of children and families
61 pursuant to section 33D. The determination shall be recorded in writing and shall include the
62 factors justifying the denial and why mitigating efforts would have been inadequate to address
63 the care needs of the child.

64 The congregate care program shall participate in the emergency team pursuant to section
65 33D; provided further the department shall assume responsibility to coordinate care for the child.

66 SECTION 3. Chapter 119, as so appearing, is hereby amended by inserting after section
67 33C, the following new section: -

68 33D. (a) The department of children and families shall collect data on the instances when
69 a congregate care program, under contract to provide foster care to children in the care or
70 custody of the department, denies to readmit a child after a circumstance requiring care in
71 another setting, including, but not limited to an emergency department visit or a stay in an
72 inpatient setting, community behavioral health center, intensive community based acute
73 treatment, community based acute treatment, or community crisis stabilization. A congregate
74 care program shall report to the department when it denies readmission to a child after a medical
75 or non-medical leave of absence, including an emergency or acute behavioral or psychiatric
76 circumstance. Such report shall include, but not be limited to, i) instances when a congregate
77 care program denies readmission of a child following a medical or non-medical leave of absence,

78 (ii) the underlying factors justifying denial of readmission of the child to a congregate care
79 program, and (iii) why mitigating efforts would have been insufficient.

80 The department shall post to the department's website, on a quarterly basis, a report on
81 the data collected in this section. To the extent feasible, all data shall be disaggregated by race,
82 ethnicity, gender identity, age and other demographic information. The department shall provide
83 a copy of the report to the executive office of health and human services; the joint committee on
84 mental health, substance use and recovery; and the joint committee on children, families and
85 persons with disabilities.

86 (b) At the request of the congregate care program or the setting where the child is
87 awaiting discharge from, the department shall convene an emergency team within two business
88 days to conduct planning discussions to facilitate child placement in an appropriate setting. The
89 emergency team shall include, but not be limited to, a representative from the child's clinical
90 care team, including, but not limited to, the team currently caring for the child; the child's
91 current behavioral health provider and primary care provider, as applicable; a representative of
92 the relevant congregate care program; a representative of the department; and the child's legal
93 guardian, if applicable. If the team does not determine an appropriate placement within 7 days of
94 convening, or earlier if the department deems additional state-agency involvement is necessary,
95 the department may refer the child to the complex case resolution panel pursuant to section 16R
96 of chapter 6A, as inserted by chapter 177 of the Acts of 2022, provided the department report to
97 the panel a written summary of the team's determination to refer the case to the complex case
98 resolution panel.

99 SECTION 4. Notwithstanding any general or special law to the contrary, the department
100 of children and families shall prepare a comprehensive plan to address access to behavioral and
101 mental health services for individuals in their custody or care. The plan shall include, but not be
102 limited to: (i) strategies to expand access to post-hospitalization settings, including but not
103 limited to, services for transitional age youth, youth with complex behavioral health needs, youth
104 with autism spectrum disorders, youth with intellectual or developmental disabilities, youth with
105 co-occurring behavioral and substance use disorders, youth with co-occurring behavioral and
106 medical needs, school-based services, and respite services; (ii) strategies to reduce the wait times
107 for patients awaiting discharge so that the patients determined appropriate for congregate care,
108 intensive residential treatment programs, community-based programs or other appropriate
109 settings would be admitted to the appropriate setting within fourteen days of their application;
110 and iii) strategies to facilitate care coordination between the department and local education
111 agencies including, but not limited to, recommendations for streamlined communications
112 between local and out-of-district schools, community partners, and other residential-educational
113 settings. The department of children and families shall submit a copy of the plan, including any
114 budgetary needs, to the executive office of health and human services; the clerks of the senate
115 and house of representatives; the joint committee on mental health, substance use, and recovery,
116 and; the joint committee on children, families, and persons with disabilities within 60 days of the
117 effective date of this act.

118 SECTION 5. Notwithstanding any general or special law to the contrary, the department
119 of developmental services shall prepare a comprehensive plan to address access to behavioral
120 and mental health services for individuals in their custody or care. The plan shall include, but not
121 be limited to: (i) strategies to expand access to post-hospitalization settings, including but not

122 limited to, services for transitional age youth, youth with complex behavioral health needs, youth
123 with autism spectrum disorders, youth with intellectual or developmental disabilities, youth with
124 co-occurring behavioral and substance use disorders, youth with co-occurring behavioral and
125 medical needs, school-based services, and respite services; (ii) strategies to reduce the wait times
126 for patients awaiting discharge so that the patients determined appropriate for congregate care,
127 intensive residential treatment programs, community-based programs or other appropriate
128 settings would be admitted to the appropriate setting within fourteen days of their application;
129 and iii) strategies to facilitate care coordination between the department and local education
130 agencies including, but not limited to, recommendations for streamlined communications
131 between local and out-of-district schools, community partners, and other residential-educational
132 settings. The department of developmental services shall submit a copy of the plan, including
133 any budgetary needs, to the executive office of health and human services; the clerks of the
134 senate and house of representatives; the joint committee on mental health, substance use, and
135 recovery, and; the joint committee on children, families, and persons with disabilities within 60
136 days of the effective date of this act.

137 SECTION 6. There shall be a special commission established for the purposes of making
138 an investigation and study relative to children and adolescents with intensive behavioral health
139 needs whose behavioral health needs, such as acute aggressive, assaultive or otherwise unsafe
140 behaviors, are not adequately addressed through inpatient psychiatric hospitalizations,
141 community based acute treatment (CBAT) services, or existing residential or community
142 treatment models contracted by the Department of Children and Families.

143 The Commission shall consist of 25 members or their designees: the Secretary of Health
144 and Human Services or a designee, who shall serve as chair; the Commissioner of Public Health

145 or a designee; the Commissioner of the Department of Children and Families or a designee; the
146 Commissioner of the Department of Youth Services or a designee; the Commissioner of the
147 Department of Developmental Service or a designee; the Commissioner of the Department of
148 Early Education and Care or a designee; Chief Justice of the Juvenile Court Department or a
149 designee; the Chairs of the Joint Committee on Mental Health, Substance Use and Recovery or
150 their designees; the Chairs of the Joint Committee on Children, Families and Persons with
151 Disabilities or their designees; a representative from the Office of the Child Advocate; a
152 representative from the Association for Behavioral Healthcare, Inc.; a representative from the
153 Massachusetts Health & Hospital Association; a representative from the Massachusetts
154 Association of Behavioral Health Systems; a representative from the Children’s Mental Health
155 Campaign; a representative from the Children’s League of Massachusetts; a representative from
156 the Parent/Professional Advocacy League; a representative from the Massachusetts Behavioral
157 Health Partnership; 6 members to be appointed by the chair, 2 of whom shall be a family
158 member of a child or adolescent with behavioral health needs or who has been involved in the
159 juvenile court system; 3 of whom shall be a behavioral health provider specializing in serving
160 children and adolescents with intensive behavioral health needs; and 1 of whom shall be a
161 clinician or researcher with expertise related to children and adolescents with intensive
162 behavioral health needs. In making appointments, the Secretary shall, to the maximum extent
163 feasible, ensure that the Commission represents a broad distribution of diverse perspectives and
164 geographic regions.

165 The Commission shall: (i) create aggregate demographic and geographic profiles of
166 children and adolescents with intensive behavioral health needs; (ii) examine the current
167 availability of, and barriers to providing, behavioral health services and treatment to children and

168 adolescents with intensive behavioral health needs; (iii) examine existing efforts undertaken by
169 healthcare providers and the existing body of research around best practices for treating children
170 and adolescents with intensive behavioral health needs; including, but not limited to models that
171 promote community involvement and diversion from the juvenile court system; and (iv) examine
172 other matters deemed appropriate by the Commission.

173 All appointments shall be made not later than 30 days after the effective date of this act.

174 The Commission shall submit its findings and recommendations to the Clerks of the
175 Senate and the House of Representatives, the Joint Committee on Mental Health, Substance Use
176 and Recovery, the Joint Committee on Children, Families and Persons with Disabilities and the
177 Senate and House Committees on Ways and Means not later than January 1, 2024. The Secretary
178 of Health and Human Services shall make the report publicly available on the website of the
179 Executive Office of Health and Human Services.