

HOUSE No. 1980

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 relative to ending unnecessary hospitalizations and reducing emergency department boarding.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/13/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/20/2023</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>4/5/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>4/5/2023</i>

HOUSE No. 1980

By Representative Decker of Cambridge, a petition (accompanied by bill, House, No. 1980) of Marjorie C. Decker and Lindsay N. Sabadosa relative to the involuntary hospitalization of individuals if no less restrictive alternatives exist to reduce the likelihood of serious harm by reason of mental illness. Mental Health, Substance Use and Recovery.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3962 OF 2021-2022.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-Third General Court
(2023-2024)**
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An Act relative to ending unnecessary hospitalizations and reducing emergency department boarding.

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 12 of chapter 123 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
3 the following subsection:-

4 (a) (i) For the purposes of this subsection, “mental health professional” shall, unless the
5 context clearly requires otherwise, mean a physician who is licensed pursuant to section 2 of
6 chapter 112; a qualified psychologist licensed pursuant to sections 118 to 129, inclusive, of said
7 chapter 112; a qualified psychiatric nurse mental health clinical specialist authorized to practice
8 as such under regulations promulgated pursuant to section 80B of said chapter 112; a nurse
9 authorized to practice in advanced practice nursing by the board of registration in nursing

10 pursuant to said section 80B of said chapter 112; a licensed independent clinical social worker
11 licensed pursuant to sections 130 to 137, inclusive, of said chapter 112; or other less restrictive
12 and voluntary community mental health services.

13 (ii) A mental health professional may only seek involuntary hospitalization of an
14 individual if no less restrictive alternative exists to reduce the likelihood of serious harm by
15 reason of mental illness, as defined in section 1. To prevent unnecessary hospitalization, a mental
16 health professional shall exhaust community-based treatment alternatives, including, but not
17 limited to: (i) the nationally-mandated 988 Suicide and Crisis Lifeline; (ii) the Behavioral Health
18 Help Line of the Roadmap for Behavioral Health Reform; (iii) services offered through
19 Community Behavioral Health Centers including mobile crisis intervention, behavioral health
20 urgent care, and community crisis stabilization; (iv) peer respite and other peer-run alternatives
21 to emergency department visits and hospitalization; (v) Children's Behavioral Health Initiative
22 (CBHI) or Behavioral Health Services for Children and Adolescents (BHCA) services; (v)
23 family supports; and (vi) technologically-supported behavioral health services, prior to seeking
24 involuntary transportation, restraint and hospitalization pursuant to this section. The mental
25 health professional shall document on the application for hospitalization that the mental health
26 professional has exhausted community-based alternatives, the reasons for the restraint of such
27 person and any other relevant information that may assist the admitting physician or physicians.

28 If the mental health professional has exhausted all community-based alternatives to
29 reduce the likelihood of serious harm by reason of mental illness, the mental health professional,
30 after examining a person or, in the event that examination is not possible because of the
31 emergency nature of the case and because of the refusal of the person to consent to such
32 examination, based on the facts and circumstances, may complete an application for evaluation

33 and treatment, which shall authorize law enforcement officers, as defined in section 1 of chapter
34 6E, or emergency medical technicians to transport the individual to the regional crisis
35 stabilization program.

36 In an emergency if a mental health professional is not available to evaluate the individual
37 for involuntary hospitalization, a law enforcement officer, who believes that failure to restrain a
38 person would create a likelihood of serious harm by reason of mental illness shall take the
39 individual directly to the nearest Community Behavioral Health Center for evaluation and
40 treatment. If the director of the Community Behavioral Health Center or designee determines and
41 documents, after a personal evaluation, that the Community Behavioral Health Center is unable
42 to prevent the individual from harming themselves or others, or if the individual does not agree to
43 accept treatment voluntarily through the crisis stabilization program, the law enforcement officer
44 or emergency medical technician may transport the person directly to the nearest inpatient
45 psychiatric facility with a bed available, utilizing the centralized database established pursuant to
46 section 12A. The individual may only be transported to a hospital emergency department if there
47 is no availability within a 30-mile radius of the initial restraint.

48 If there is no availability at an inpatient psychiatric facility, and the individual is
49 transported to an emergency department of a general hospital, then within 12 hours of arrival at
50 the emergency department, the person shall be informed of their right to speak with an attorney
51 and to request a probable cause hearing. The emergency department staff shall provide the
52 individual with notice of their rights pursuant to this section and, if the person requests counsel,
53 shall promptly contact the mental health litigation division of the committee for public counsel
54 services to request appointment of counsel in accordance with chapter 211D. The committee for
55 public counsel services shall appoint counsel forthwith.

56 Any individual who remains in an emergency department for 48 hours from the time of
57 arrival shall be entitled to a probable cause hearing upon request to determine if the person meets
58 the criteria for emergency detention. The hearing shall be held by the district or municipal court
59 with jurisdiction over the hospital no later than the next business day. The hearing shall be
60 conducted at the hospital where the individual is admitted, with all participants attending either
61 in-person or virtually.

62 SECTION 2. Said section 12 of said chapter 123, as so appearing, is hereby further
63 amended by adding the following subsection:-

64 (f) The department shall collect information regarding all applications pursuant to this
65 section. The department shall annually, not later than July 31, report to the house and senate
66 committees on ways and means, joint committee on public health and the joint committee on
67 mental health, substance use and recovery the number of applications pursuant to said section 12,
68 such other information as may be relevant, and any actions the department has taken in response
69 to the information it has received, including any licensing actions.

70 SECTION 3. Said chapter 123 of the General Laws is hereby amended by inserting after
71 section 12 the following section:-

72 Section 12A. The department shall establish and maintain a database of inpatient
73 psychiatric facilities licensed pursuant to section 19 of chapter 19 within the Commonwealth for
74 use by law enforcement officers, as defined in section 1 of chapter 6E, emergency medical
75 technicians and healthcare professionals. The database shall be updated daily and show available
76 capacity at all inpatient psychiatric facilities.