

# SENATE . . . . . No. 54

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***John F. Keenan***

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*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.

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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

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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.

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## The Commonwealth of Massachusetts

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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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

(4) Annual restraint data in the aggregate and for each facility in the aggregate, including information regarding the number and rate of restraints and injuries related to restraints, provided

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

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

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

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

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

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

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

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

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

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

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

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

(2) The annual number of substantiated reports in the aggregate and the number and rate of said reports for each facility filed in accordance with section 51A of Chapter 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C against the program and or its employees, including the annual number and rate of such substantiated reports resulting in hospitalization, death, and or criminal charges of which the defendants were found guilty, provided further that said information shall also include the number and rate of

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

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

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

The department shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available on its website the number of critical incident investigation reports in the aggregate and the number and rate of critical incident investigation reports for each

program documenting serious incidents as determined by the department where the health and safety of an individual with disabilities was determined to be at risk, and provided further that the department shall determine the annual rate of critical incidents in which the health and safety of an individual with disabilities was determined to be at risk based on the programs' total annual hours of operation multiplied by the total annual program attendance divided by the total annual number of incident reports.

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

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

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



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

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

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

SECTION 10. Section 4E of chapter 40 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding at the end of clause (k) the following:-

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. Section 1B of Chapter 69 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the seventh paragraph the following paragraph:-

The board shall annually publish a supplemental report containing student achievement data for each approved private special education school or program and collaborative program, provided that such data shall include student performance on the statewide assessment system approved by the board under section 1I, and provided further that the board shall include in said report (1) data from the department of elementary and secondary education for each school or program regarding the nature of the student disability population served and the relationship of the disability to test score performance; and (2) information regarding school or program size and student mobility rates for each program along with cautionary language and explanations to allow parents and the public a means of understanding if the achievement data has any real

comparative value in comparing schools and or programs or from year to year. The board in publishing said report shall exclude: (1) achievement data from schools with a number of students that the board has determined does not meet the minimum number of students sufficient to yield reliable data in accordance with 34 CFR 200.7(2)(i); and (2) achievement data from a student of an approved private special education school or program or collaborative program who has been enrolled in said school or program for less than a year in accordance with 34 CFR 200.20(d)(2)(3)(1) and (2). The board shall also include information on other student outcome measures such as rates for student graduation, suspensions, expulsions and drop-outs as are currently reported by the department of elementary and secondary education in the Individuals with Disabilities Education Act (IDEA) Part B Annual Performance Plan.”

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

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

In establishing the policies deemed necessary to fulfill the purposes of chapter seventy-one B, the board shall require the department of elementary and secondary education to make public on its website information relating to the approval or reapproval of private day and residential special education school programs. This information shall include the name and location of each program and the effective date of the approval or reapproval reports, provided

further that said policies shall also require the publishing of annual restraint data in the aggregate and for each program, including information, in the aggregate and for each program, regarding the number of injuries related to restraints, provided that the board shall adequately describe the nature of the student population and any associated behaviors for the student population served in relation to the number of reported restraints, and provided further that such information complies with state and federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this paragraph shall be determined to supersede any regulations and policies of the department relating to the privacy of a child. The board shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available on its website the aggregate number of critical incident reports, in the aggregate and for each program, documenting serious incidents as determined by the department where the health and safety of a child was determined to be at risk.

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

In promulgating regulations in accordance with this section, the board shall require the department to make the required information and data available in the aggregate and by approved or licensed program type and by individual approved or licensed program. Reports for individual approved or licensed programs shall compare the program to other approved or 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.”



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

SECTION 14. Chapter 111 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding after section 1 the following section:-

Section 1A. Public information for certain licensed programs

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

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

(2) Annual restraint data in the aggregate and for each facility in the aggregate, including information regarding the number and rate of restraints and injuries related to restraints, provided that the department shall adequately describe the nature of the patient population and any associated behaviors for the patient population served in relation to the number of reported restraints for each licensed facility, and provided further that the department shall calculate each facility's annual rate of restraint and related injuries based on the facility's total annual hours of 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.

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

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

The department shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available and public on a public website or public database the following information for any private, county or municipal facility or department or ward or any such facility licensed by the department serving any person under the age of 18 or under the age of 22 if that person is a child with special needs (1) information relating name and location of each department facility; (2) the annual number of substantiated reports in the aggregate and the number and rate of said reports for each facility filed in accordance with section 51A of Chapter 119 of the General Laws and substantiated reports filed in accordance with section 15 of Chapter 19A and Chapter 19C against the program and or its employees, including the annual number and rate of such substantiated reports resulting in hospitalization, death, and or criminal charges of which the defendants were found guilty; (3) the annual number and rate of substantiated reports in the aggregate and the number of said reports filed in accordance with section 51A of Chapter 119 of the General Laws and substantiated reports filed in accordance with section 15 of Chapter 19A and Chapter 19C related to the use of restraints; and (4) annual restraint data in the aggregate and for each department facility, including regarding the number and rate of restraints and injuries related to restraints, provided that said information shall also include the number

and rate of substantiated reports that were self-reported by a facility and or its staff, provided that the rate of all said reports required by this section shall be calculated for each facility by multiplying the total annual hours of operation by the total annual facility attendance divided by the total annual number of reports; and that the annual aggregate rate of restraint reduction shall be determined for each facility; and (5) the aggregate number of critical incident investigation reports, in the aggregate and for each program, documenting serious incidents as determined by the department where the health and safety of a person under the age of 18 or under the age of 22 if that person is a child with special needs was determined to be at risk, and provided further that the department shall determine the rate of critical incidents in which the health and safety of a person under the age of 18 or under the age of 22 if that person is a child with special needs was determined to be at risk by multiplying the total annual hours of operation by the total annual facility attendance divided by the total annual number of reports.

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

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