

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

PETITION OF:

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

SENATE DOCKET, NO. 1217 FILED ON: 1/17/2019 SENATE No. 54

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 54) of John F. Keenan, Anne M. Gobi, Patrick M. O'Connor, Paul K. Frost and other members of the General Court for legislation to enhance public transparency to support quality care outcomes in all child serving organizations. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

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

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 22N of chapter 7 of the General Laws, as appearing in the 2016

2 Official Edition, is hereby amended by adding after the ninth paragraph the following

3 paragraph:-

The bureau shall annually provide notice to all governmental units, including school
committees, who are purchasers of special education programs pursuant to chapter 71B of the
availability and location of Uniform Financial Statement and Independent Auditor's Reports
(UFR) as defined in regulation by the division that have been completed and submitted to said
division in accordance with 808 CMR 1.04.
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, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be 27 28 determined to supersede any regulations and policies of the department relating to the privacy of 29 a child.

The office shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available on its website 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 child was determined to be at risk, and provided further that the office shall determine the annual rate of critical incidents in which the health and

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

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

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

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.

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

81 There shall be established in accordance with this section a commission established by 82 the office that shall (1) define the levels of care required by said disabilities as used in the 83 preceding paragraph, provided that the said levels of care are defined based on factors that 84 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 85 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers, 86 teachers and school or program staff; and (2) provide recommendations relating to opportunities 87 for quality improvement by utilizing said information and data required to be made available in 88 accordance with this section, provided that said commission include the following: a 89 representative from the department; a parent of a school age child with a disability as defined by 90 section 1 of chapter 71B of the General Laws; and an administrator or staff member of a school, 91 charter school or school district, including a regional school district, responsible for making said 92 information to the department. 93 Provided further that the names of any teachers, staff members or other employees who 94 are named in a restraint report filed in accordance with the regulations shall be considered 95 exempt according to section 10B of Chapter 66 of the General Laws. 96 SECTION 3. Chapter 15D of the General Laws, as appearing in the 2016 Official 97 Edition, is hereby amended by adding after section 7, the following section:-

98 Section 7A. (a) The department shall promulgate regulations, subject to chapter 30A, to 99 determine a process to annually make available on its website information relating to the license 100 and approval of each department licensed and or funded program . This information shall include 101 the name and location of each program and the effective date of the license and or renewal of 102 each program and any related licensing reports. 103 (b) The department shall promulgate regulations, subject to chapter 30A, to determine a 104 process to annually make available on its website the number of critical incident investigation 105 reports in the aggregate and for each program that documents serious incidents as determined by 106 the department where the health and safety of a child was determined to be at risk, and provided 107 further that the department shall determine the annual rate of critical incidents in which the 108 health and safety of a child was determined to be at risk based on the programs' total annual 109 hours of operation multiplied by the total annual program attendance divided by the total annual number of critical incident reports 110

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

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.

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

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.

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

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

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

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.

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

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

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 a 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

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 privateschools approved pursuant to section 1 of chapter 76 of the General Laws.

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

(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.

264 (i) The child advocate together with the executive office of education and the executive 265 office of health and human services shall determine the feasibility of recommending proposed 266 regulations or policies that establish a consistent definition of restraint to agencies within said 267 secretariats that fund, license or approve child serving schools, programs or organizations within 268 one year after the effective date of this act; and provided further that the child advocate together 269 with said secretariats within one year after the effective date of this act also issue a report to the 270 governor of the commonwealth, the clerks of the house of representatives and the senate, the 271 chairs of the joint committee on education and the joint committee on children, families and 272 persons with disabilities that details the feasibility of establishing a single online reporting 273 system coordinated between agencies that allows for the reporting of restraints and critical 274 incidents by child serving schools, programs or organizations within the commonwealth. 275 SECTION 7. Section 19 of chapter 19 of the General Laws, as appearing in the 2016 276 Official Edition, is hereby amended by adding after clause (g) following clause:-

(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;

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

(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 asdetermined 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.

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

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.

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

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.

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

363 (h) As part of its licensing process, the department shall promulgate regulations, subject 364 to chapter 30A, to determine a process to annually make available and public on a public website 365 or public database the following information for any private, county or municipal facility or 366 department or ward or any such facility licensed by the department serving any person under the 367 age of 18 or under the age of 22 if that person is a child with special needs: 368 (1) Information relating to the license of each facility granted by the department. This
369 information shall include the name and location of each program and the effective date of the
370 license and or renewal of each program and any related licensing reports;

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

(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.

388 (4) Annual restraint data in the aggregate and for each facility in the aggregate, including389 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.

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

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.

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

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

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

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

434	accordance with this section, provided that said commission include one representative from the
435	department and one administrator or staff member of a private, county or municipal facility or
436	department or ward or any such facility licensed by the department.
437	Provided further that the names of any teachers, staff members or other employees who
438	are named in a restraint report filed in accordance with the regulations shall be considered
439	exempt according to section 10B of Chapter 66 of the General Laws.
440	SECTION 9. Section 15A of chapter 19B of the General Laws, as so appearing, is
441	hereby amended by adding after clause (f) the following clause:-
442	(g) As part of its licensing process, the department shall promulgate regulations, subject
443	to chapter 30A, to determine a process to annually make available and public on a public website
444	or public database the following information for any private, county or municipal facility or
445	department or ward or any such facility licensed by the department serving any person under the
446	age of 18 or under the age of 22 if that person is a child with special needs:
447	(1) Information relating to the license of each facility granted by the department. This
448	information shall include the name and location of each program and the effective date of the
449	license and or renewal of each program and any related licensing reports;
450	(2) The annual number of substantiated reports in the aggregate and the number and rate
451	of said reports for each facility filed in accordance with section 51A of Chapter 119 of the
452	General Laws and such substantiated reports filed in accordance with Chapter 19C against the
453	program and or its employees, including the annual number and rate of such substantiated reports
454	resulting in hospitalization, death, and or criminal charges of which the defendants were found
455	guilty, provided further that said information shall also include the number and rate of

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

466 (4) Annual restraint data in the aggregate and for each program licensed, funded by the 467 department in the aggregate, including information regarding the number and rate of restraints 468 and injuries related to restraints, provided that the department shall adequately describe the 469 nature of the patient population and any associated behaviors for the patient population served in 470 relation to the number of reported restraints for each licensed facility, and provided further that 471 the department shall calculate each program's annual rate of restraints and injuries based on the 472 program's total annual hours of operation multiplied by the total annual facility attendance 473 divided by the total annual number of restraints, and provided further that the office shall 474 determine the program's annual aggregate rate of restraint reduction.

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

478 program documenting serious incidents as determined by the department where the health and 479 safety of an individual with disabilities was determined to be at risk, and provided further that 480 the department shall determine the annual rate of critical incidents in which the health and safety 481 of an individual with disabilities was determined to be at risk based on the programs' total 482 annual hours of operation multiplied by the total annual program attendance divided by the total 483 annual number of incident reports.

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.

487 Nothing in this section prevents such facility from appealing to the department regarding 488 the accuracy of the information required to be made available by this section. In an event where 489 the department is unwilling to make changes to the available information, a facility shall have the 490 right to include a clarifying statement in the area of the department's website where said 491 information is made available.

492 In promulgating regulations in accordance with this section, the department shall make 493 the required information and data available in the aggregate and by private, county or municipal 494 facility or department or ward or any such facility licensed by the department. Reports for said 495 individual facilities shall compare the facility to other private, county or municipal facilities or 496 department or wards or any other such facility licensed by the department according to: (a) the 497 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said 498 facility, (d) the population served by said facility and the level of care required by said 499 population, (e) the number of days of service and the hours of service per day, in the aggregate;

500 provided further that the department shall also ensure that said regulations comply with state and 501 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR 502 Part 99. The process to make public and available said information shall be determined in a 503 manner to ensure patient privacy and to comply with state and federal privacy laws, including the 504 federal Health Insurance Portability and Accountability Act of 1996.

505 There shall be established in accordance with this section a commission established by 506 the department that shall (1) define the levels of care required by said population as used in the 507 preceding paragraph, provided that the said levels of care are defined based on factors that 508 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 509 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers, 510 department and or program staff; and (2) provide recommendations relating to opportunities for 511 quality improvement by utilizing said information and data required to be made available in 512 accordance with this section, provided that said commission include one representative from the 513 department and one administrator or staff member of a private, county or municipal facility or 514 department or ward or any such facility licensed by the department.

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

- 518 SECTION 10. Section 4E of chapter 40 of the General Laws, as appearing in the 2016
 519 Official Edition, is hereby amended by adding at the end of clause (k) the following:-
- 520 The department shall make said reviews available on its website and any related
 521 corrective action plan and additional information relative to said reviews available on its website.

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

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

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 totalannual student attendance divided by the total annual number of critical incident reports

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

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

seach collaborative by multiplying the total annual hours of operation by the total annual facilityattendance 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.

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

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

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

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

602 The board shall annually publish a supplemental report containing student achievement 603 data for each approved private special education school or program and collaborative program, 604 provided that such data shall include student performance on the statewide assessment system 605 approved by the board under section 1I, and provided further that the board shall include in said 606 report (1) data from the department of elementary and secondary education for each school or 607 program regarding the nature of the student disability population served and the relationship of 608 the disability to test score performance; and (2) information regarding school or program size 609 and student mobility rates for each program along with cautionary language and explanations to 610 allow parents and the public a means of understanding if the achievement data has any real

611 comparative value in comparing schools and or programs or from year to year. The board in 612 publishing said report shall exclude: (1) achievement data from schools with a number of 613 students that the board has determined does not meet the minimum number of students sufficient 614 to yield reliable data in accordance with 34 CFR 200.7(2)(i); and (2) achievement data from a 615 student of an approved private special education school or program or collaborative program 616 who has been enrolled in said school or program for less than a year in accordance with 34 CFR 617 200.20(d)(2)(3)(1) and (2). The board shall also include information on other student outcome 618 measures such as rates for student graduation, suspensions, expulsions and drop-outs as are 619 currently reported by the department of elementary and secondary education in the Individuals 620 with Disabilities Education Act (IDEA) Part B Annual Performance Plan." 621 Nothing in this section prevents such schools or programs from appealing to the 622 department regarding the accuracy of the information required to be made available by this 623 section. In an event where the department is unwilling to make changes to the available 624 information, said schools and programs shall have the right to include a clarifying statement in 625 the area of the department's website where said information is made available. 626 SECTION 13. Section 1B of chapter 69 of the General Laws, as so appearing, is hereby 627 amended by adding after the twenty-fifth paragraph the following paragraphs:-628 In establishing the policies deemed necessary to fulfill the purposes of chapter seventy-

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 633 further that said policies shall also require the publishing of annual restraint data in the aggregate 634 and for each program, including information, in the aggregate and for each program, regarding 635 the number of injuries related to restraints, provided that the board shall adequately describe the 636 nature of the student population and any associated behaviors for the student population served 637 in relation to the number of reported restraints, and provided further that such information 638 complies with state and federal child and student privacy laws, including the provisions of 20 639 U.S.C. 1232g and 34 CFR Part 99. Nothing in this paragraph shall be determined to supersede 640 any regulations and policies of the department relating to the privacy of a child. The board shall 641 promulgate regulations, subject to chapter 30A, to determine a process to annually make 642 available on its website the aggregate number of critical incident reports, in the aggregate and for 643 each program, documenting serious incidents as determined by the department where the health 644 and safety of a child was determined to be at risk.

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."

677 Provided further that the names of any teachers, staff members or other employees who 678 are named in a restraint report filed in accordance with the regulations shall be considered 679 exempt according to section 10B of Chapter 66 of the General Laws. 680 SECTION 14. Chapter 111 of the General Laws, as appearing in the 2016 Official 681 Edition, is hereby amended by adding after section 1 the following section:-682 Section 1A. Public information for certain licensed programs 683 As part of its licensing process, department shall promulgate regulations, subject to 684 chapter 30A, to determine a process to annually make available and public on a public website or 685 public database the following information for each health care facility defined by section 25B 686 and each facility defined by section 51H licensed by the department serving any person under the 687 age of 18 or under the age of 22 if that person is a child with special needs: 688 (1) Information relating to the license of each health care facility and facility granted by 689 the department. This information shall include the name and location of each program and the 690 effective date of the license and or renewal of each program and any related licensing reports; 691 and 692 (2) Annual restraint data in the aggregate and for each facility in the aggregate, including 693 information regarding the number and rate of restraints and injuries related to restraints, provided 694 that the department shall adequately describe the nature of the patient population and any

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

697 facility's annual rate of restraint and related injuries based on the facility's total annual hours of

698 operation multiplied by the total annual facility attendance divided by the total annual number of

restraints, and provided further that the office shall determine the facility's annual aggregate rateof 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.

(4) 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 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 by multiplying the total annual hours of operation by the total annual facility attendance divided by the total annual number of 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 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:-

727 The department shall promulgate regulations, subject to chapter 30A, to determine a 728 process to annually make available and public on a public website or public database the 729 following information for any private, county or municipal facility or department or ward or any 730 such facility licensed by the department serving any person under the age of 18 or under the age 731 of 22 if that person is a child with special needs (1) information relating name and location of 732 each department facility; (2) the annual number of substantiated reports in the aggregate and the 733 number and rate of said reports for each facility filed in accordance with section 51A of Chapter 734 119 of the General Laws and substantiated reports filed in accordance with section 15 of Chapter 735 19A and Chapter 19C against the program and or its employees, including the annual number 736 and rate of such substantiated reports resulting in hospitalization, death, and or criminal charges 737 of which the defendants were found guilty; (3) the annual number and rate of substantiated 738 reports in the aggregate and the number of said reports filed in accordance with section 51A of 739 Chapter 119 of the General Laws and substantiated reports filed in accordance with section 15 of 740 Chapter 19A and Chapter 19C related to the use of restraints; and (4) annual restraint data in the 741 aggregate and for each department facility, including regarding the number and rate of restraints 742 and injuries related to restraints, provided that said information shall also include the number

743 and rate of substantiated reports that were self-reported by a facility and or its staff, provided 744 that the rate of all said reports required by this section shall be calculated for each facility by 745 multiplying the total annual hours of operation by the total annual facility attendance divided by 746 the total annual number of reports; and that the annual aggregate rate of restraint reduction shall 747 be determined for each facility; and (5) the aggregate number of critical incident investigation 748 reports, in the aggregate and for each program, documenting serious incidents as determined by 749 the department where the health and safety of a person under the age of 18 or under the age of 22 750 if that person is a child with special needs was determined to be at risk, and provided further that 751 the department shall determine the rate of critical incidents in which the health and safety of a 752 person under the age of 18 or under the age of 22 if that person is a child with special needs was 753 determined to be at risk by multiplying the total annual hours of operation by the total annual 754 facility attendance divided by the total annual number of reports.

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

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.

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.