

**HOUSE . . . . . No. 203**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Marjorie C. Decker***

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

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

An Act relative to transparency in behavioral health boarding.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/19/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/25/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/26/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/26/2021</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>3/9/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/9/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/31/2021</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>4/1/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>5/11/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>6/15/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>7/22/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>8/6/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>9/3/2021</i>

**HOUSE . . . . . No. 203**

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 203) of Marjorie C. Decker and others relative to the coordination of services for children and adolescents awaiting clinically-appropriate behavioral health services. Children, Families and Persons with Disabilities.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act relative to transparency in behavioral health boarding.

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

1 SECTION 1. Chapter 6A of the General Laws, as appearing in the 2018 Official Edition,  
2 is hereby amended by striking out section 16P and inserting in place thereof the following  
3 section:-

4 Section 16P. (a) For the purpose of this section, the following words shall, unless the  
5 context clearly requires otherwise, have the following meanings:

6 “Awaiting residential disposition”, an individual who waits 72 hours or more to be  
7 moved from an acute level of psychiatric care to a less intensive or less restrictive clinically-  
8 appropriate level of psychiatric care.

9 “Boarding”, when an individual waits 12 hours or more to be placed in an appropriate  
10 therapeutic setting, after being assessed to need acute psychiatric treatment, intensive  
11 community-based treatment, continuing care unit placement, or post-hospitalization residential

12 placement, and having been determined by a licensed health care provider to be medically stable  
13 without needing urgent medical assessment or hospitalization for a physical health condition.

14 “Children and adolescents”, individuals between the ages of 0 and 18 years old.

15 (b) The secretary of health and human services shall facilitate the coordination of services  
16 for children and adolescents awaiting clinically-appropriate behavioral health services by  
17 developing and maintaining an online portal that enables the public to access real-time data on  
18 children and adolescents who are boarding, awaiting residential disposition or are in the care or  
19 custody of a state agency and are awaiting discharge to an appropriate foster home or a  
20 congregate or group care program.

21 (c) The online portal shall include, but not be limited to, the following data: (1) the total  
22 number of children and adolescents boarding in the commonwealth, including a breakdown of  
23 the total number of children and adolescents boarding in hospital emergency rooms or at  
24 emergency services sites, on a medical floor after having received medical stabilization  
25 treatment, or while at home; (2) the total number of children and adolescents awaiting residential  
26 disposition in the commonwealth, including a breakdown of the type of facility that each child or  
27 adolescent is currently placed at while awaiting residential disposition and the type of placement  
28 for which each child and adolescent is waiting; and (3) the total number of children and  
29 adolescents in the commonwealth who are hospitalized and in the care or custody of a state  
30 agency, and have been assessed to no longer need hospital-level care, but have waited 72 hours  
31 or more for discharge to an appropriate foster home or a congregate or group care program.

32 (d) For each category of children and adolescents data published on the online portal  
33 pursuant to subsection (c), the online portal shall include the following data: (1) the average

34 length of wait for discharge to the appropriate level of care or placement; (2) the level of care  
35 required as determined by a licensed health care provider; (3) the primary behavioral health  
36 diagnosis and any comorbid conditions relevant for the purposes of placement; (4) the primary  
37 reason for boarding, awaiting residential disposition or, for children and adolescents who are  
38 hospitalized and in the care or custody of a state agency and have been assessed to no longer  
39 need hospital-level care, the primary reason why such children and adolescents have waited 72  
40 hours or more for discharge to an appropriate foster home or a congregate or group care  
41 program; (5) whether the children and adolescents are in the care or custody of the department of  
42 children and families or the department of youth services or are eligible for services from the  
43 department of mental health or the department of developmental services; (6) the type of  
44 insurance coverage for the children and adolescents; and (7) the ages, races, ethnicities, preferred  
45 spoken languages, and genders of the children and adolescents.

46 (e) The online portal shall include data on the availability of pediatric acute psychiatric  
47 beds, intensive community-based treatment beds, continuing care beds, and post-hospitalization  
48 residential beds. The online portal shall also enable a real-time bed search and shall categorize  
49 beds by geographic region in the commonwealth, which shall include, but not be limited to: (1)  
50 the total number of beds licensed by the department of mental health, the department of public  
51 health and the department of early education and care, and the total number of available beds  
52 broken down by licensing authority; (2) the total number of available beds broken down by  
53 children and adolescents age ranges; (3) the average daily bed availability broken down by  
54 licensing authority and by children and adolescent age ranges; (4) daily bed admissions broken  
55 down by licensing authority and by children and adolescent age ranges; (5) the location from  
56 which a child or adolescent was admitted; (6) daily bed discharges broken down by licensing

57 authority and by children and adolescent age ranges; and (7) the average length of stay broken  
58 down by licensing authority and by children and adolescent age ranges.

59 (f) (1) Quarterly, not later than 14 days after the preceding quarter has ended, the  
60 secretary shall compile a report on the status of children and adolescents awaiting clinically-  
61 appropriate behavioral health services, which shall include a summary and assessment of the data  
62 published on the online portal under subsections (c), (d) and (e) for the immediately preceding  
63 quarter.

64 (2) Annually, not later than February 1, the secretary shall compile a report on the status  
65 of children and adolescents awaiting clinically-appropriate behavioral health services, which  
66 shall include a summary and assessment of the data published on the online portal under  
67 subsections (c), (d) and (e) for the immediately preceding calendar year.

68 (3) The reports required under paragraphs (1) and (2) of this subsection shall be  
69 submitted to the children’s behavioral health advisory council established in section 16Q, the  
70 office of the child advocate, the health policy commission, the chairs of the joint committee on  
71 health care financing, the chairs of the joint committee on mental health, substance use and  
72 recovery, the chairs of the joint committee on children, families and persons with disabilities,  
73 and the senate and house committees on ways and means.

74 SECTION 2. Chapter 6D of the General Laws, as appearing in the 2018 Official Edition,  
75 is hereby amended by adding the following section:-

76 Section 20. Every 5 years, the commission, in collaboration with the department of public  
77 health, the department of mental health, and the department of developmental services, shall  
78 review data on children and adolescents awaiting clinically-appropriate behavioral health

79 services published on the online portal under section 16P of chapter 6A and compiled by the  
80 secretary of health and human services in the reports submitted to the commission under  
81 subsection (f) of section 16P of chapter 6A, and shall publish on its website a pediatric  
82 behavioral health planning report that analyzes the pediatric behavioral health needs of the  
83 commonwealth. The report shall include, but not be limited to, an analysis of: (i) the availability  
84 of pediatric acute psychiatric beds, intensive community-based treatment beds, continuing care  
85 beds, and post-hospitalization residential beds by geographic region in the commonwealth and  
86 by sub-specialty, and any service limitations; (ii) the capacity of the pediatric behavioral health  
87 workforce to respond to the acute behavioral health needs of children and adolescents across the  
88 commonwealth; and (iii) any statutory, regulatory or operational factors that may impact  
89 pediatric boarding.

90 SECTION 3. Chapter 18C of the General Laws, as appearing in the 2018 Official  
91 Edition, is hereby amended by inserting after section 10 the following section:-

92 Section 10A. (a) The child advocate shall review data on children and adolescents  
93 awaiting clinically-appropriate behavioral health services published on the online portal under  
94 section 16P of chapter 6A and compiled by the secretary of health and human services in the  
95 reports submitted to the child advocate under subsection (f) of section 16P of chapter 6A, and  
96 shall draft an annual report analyzing any trends in the data from the immediately preceding  
97 calendar year and making recommendations for decreasing and eliminating the number of  
98 children and adolescents awaiting clinically-appropriate behavioral health services by geographic  
99 region in the commonwealth and by sub-specialty. The report shall be submitted annually, not  
100 later than April 1, to the governor, the children's behavioral health advisory committee  
101 established in section 16Q of chapter 6A, the clerks of the senate and the house of

102 representatives, the chairs of the joint committee on health care financing, the chairs of the joint  
103 committee on mental health, substance use and recovery, the chairs of the joint committee on  
104 children, families and persons with disabilities, and the senate and house committees on ways  
105 and means.

106 SECTION 4. Notwithstanding any general or special law to the contrary, the so called  
107 expedited psychiatric inpatient admissions protocol, developed by the executive office of health  
108 and human services, department of mental health, department of public health, division of  
109 medical assistance and division of insurance, shall: (i) require, for patients under the age of 22,  
110 notification to the department of mental health to expedite placement in or admission to an  
111 appropriate treatment program or facility within 48 hours of boarding or within 48 hours of being  
112 assessed to need acute psychiatric treatment and having been determined by a licensed health  
113 care provider to be medically stable without needing urgent medical assessment or  
114 hospitalization for a physical health condition; (ii) include, within the escalation protocol,  
115 patients who initially had a primary medical diagnosis or primary presenting problem requiring  
116 treatment on a medical-surgical floor, who have been subsequently medically cleared and are  
117 boarding on a medical-surgical floor for an inpatient psychiatric placement; and (iii) include, for  
118 patients under the age of 22, notification upon discharge from the emergency department,  
119 satellite emergency facility or medical-surgical floor to the patient's primary care physician, if  
120 known.

121 SECTION 5. The secretary of health and human services shall develop the online portal  
122 established by section 16P of chapter 6A of the General Laws not later than 6 months after the  
123 effective date of this act.

124 SECTION 6. The health policy commission shall publish its first pediatric behavioral  
125 health planning report required by section 20 of chapter 6D of the General Laws not later than 1  
126 year after the effective date of this act.

127 SECTION 7. The office of the child advocate shall publish the first annual report  
128 required by section 10A of chapter 18C of the General Laws not later than 1 year after the  
129 development of the online portal established by section 16P of chapter 6A of the General Laws.

130 SECTION 8. Section 6 shall take effect on January 1, 2023; provided, however, that the  
131 department of public health shall promulgate regulations to implement section 51<sup>3</sup>/<sub>4</sub> of chapter  
132 111 of the General Laws not later than October 1, 2022.