HOUSE DOCKET, NO. 3658 FILED ON: 2/19/2021

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

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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:

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

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

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

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

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

"Children and adolescents", individuals between the ages of 0 and 18 years old.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 8. Section 6 shall take effect on January 1, 2023; provided, however, that the department of public health shall promulgate regulations to implement section 51¾ of chapter 111 of the General Laws not later than October 1, 2022.