

HOUSE No. 5275

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 25, 2026.

The committee on Mental Health, Substance Use and Recovery, to whom was referred the petition (accompanied by bill, House, No. 2198) of Marjorie C. Decker relative to emergency department boarding, reports recommending that the accompanying bill (House, No. 5275) ought to pass [Representatives Xiarhos of Barnstable, Muradian of Grafton and Howitt of Seekonk dissent].

For the committee,

MINDY DOMB.

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**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act reducing emergency department boarding.

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

1 Section 1. Section 12 of Chapter 123 of the General Laws, as appearing in the 2024
2 Official Edition, is hereby amended by inserting after subsection (a) the following subsection:-

3 (a $\frac{1}{2}$) No person shall be restrained under subsection (a) at a facility not authorized by the
4 department to perform evaluations under subsection (b) unless the person, or the person’s parent
5 or legal guardian on the person’s behalf, is given an opportunity to apply for voluntary admission
6 under paragraph (a) of section 10 and unless the person, or the person’s parent or legal guardian,
7 has been informed that: (i) the person has a right to such voluntary admission; and (ii) the period
8 of restraint under this section cannot exceed 72 hours. Any person restrained longer than 72
9 hours must be released or transferred to a facility authorized by the department to perform
10 evaluations under said subsection (b); provided, however, that, at any time during such period of
11 hospitalization, the superintendent may discharge such person if the superintendent determines
12 that such person is not in need of care and treatment; and provided further, that any person
13 restrained under this section at a facility that has not been authorized by the department to
14 perform evaluations under subsection (b) for more than 48 hours shall be informed by the facility

15 that it shall, upon such person's request, notify the committee for public counsel services of the
16 name and location of the person restrained. The committee for public counsel services shall
17 immediately appoint an attorney who shall meet with the person. If the appointed attorney
18 determines that the person voluntarily and knowingly waives the right to be represented, is
19 presently represented or will be represented by another attorney, the appointed attorney shall so
20 notify the committee for public counsel services, which shall withdraw the appointment. Any
21 person restrained under this subsection who has reason to believe that such restraint is the result
22 of an abuse or misuse of this subsection may request or request through counsel an emergency
23 hearing in the district court in whose jurisdiction the facility is located and, unless a delay is
24 requested by the person or through counsel, the district court shall hold such hearing on the day
25 the request is filed with the court or not later than the next business day.