

Massachusetts Down Syndrome Congress State Legislative Priorities



**For the 191st Session of the General Court
2019-2020**

**Recommended by the
MDSC Government Affairs Committee**

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MASSACHUSETTS DOWN SYNDROME CONGRESS PRIORITY BILLS

Higher Education Bill

H.1219, H.1218, S.756 — An Act creating higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities who have exited special education

Representatives Patricia Haddad (617-722-2600) and Sean Garballey (617-722-2090) and Senators Joan Lovely (617-722-1410) and Michael Rodrigues (617-722-1114)

Overview: This bill allows persons with intellectual disabilities (ID), autism and other disabilities to access the Commonwealth's state colleges and universities to gain skills necessary to work and live as independently as possible as adults.

Bill Language:

SECTION 1. Section 1 of chapter 15A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "opportunities", in line 14 , the following words:- , including individuals with severe intellectual disabilities, severe autism spectrum disorders, and other severe developmental disabilities.

SECTION 2. Said section 1 of said chapter 15A of the General Laws, as so appearing, is hereby amended by striking out, in line 23 , the second time it appears, the following word:- "and".

SECTION 3. Said section 1 of said chapter 15A, as so appearing, is hereby further amended by inserting after the word "levels", in line 28, the following words:- ; and

(d) to provide inclusive educational opportunities for individuals with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities in order to improve academic achievement, develop employment and independent living skills, and enhance the learning environment for all citizens.

SECTION 4. The fourth paragraph of section 7 of said chapter 15A, as so appearing, is hereby amended by inserting after the word "students", in line 35, the following:- , and students with severe intellectual disabilities, severe autism spectrum disorders, and other severe developmental disabilities.

SECTION 5. Section 7A of said chapter 15A, as so appearing, is hereby amended by striking out, in line 26, the word "and".

SECTION 6. Said section 7A of said chapter 15A, as so appearing, is hereby further amended by inserting after the word "sources", in line 26, the following words:- ; and (10) improving access for students with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities.

SECTION 7. Said section 7A of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 86, the word "and".

SECTION 8. Said section 7A of said chapter 15A, as so appearing, is hereby further amended by

inserting after the word “sources”, in line 87, the following words:– ; and (10) to improve access for students with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities.

SECTION 9. Said chapter 15A, as so appearing, is hereby amended by inserting after section 39 the following section: –

Section 39A. (a) In order to provide individuals with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities ages 18–22 with opportunities to be included with nondisabled students in all aspects of higher education for the purpose of gaining academic, career and technical, and independent living skills to prepare them for adult life, including but not limited to employment and civic engagement, these individuals shall not be required to take any standardized college entrance aptitude test; have a high school diploma or its equivalent; meet minimum academic course requirements; meet minimum grade point average requirements; or obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under section 1D of chapter 69 of the General Laws, in order to participate in undergraduate academic courses that include students without disabilities, participate in internships or work–based training in settings with nondisabled students, and participate in extracurricular activities and all other aspects of campus life, in accordance with the provisions of this section.

(b) Public institutions of higher education, in consultation with the department of higher education and consistent with the purposes of this section, may create guidelines to select students participating in higher education pursuant to this section, including but not limited to guidelines to determine campus capacity and to coordinate selection of students with relevant local, state or other public agencies serving students with severe intellectual disabilities, severe autism spectrum disorders, and other severe developmental disabilities, provided that these individuals may not be denied opportunities to participate in higher education solely due to their intellectual disability, autism spectrum disorders or developmental disability. Public institutions of higher education, in consultation with the department of higher education and consistent with the purposes of this section, may also establish course selection guidelines to help ensure that these individuals receive guidance in selecting courses that are appropriate to their individual strengths, needs, preferences and interests. These individuals shall be allowed to choose either to take a credit–bearing, undergraduate academic course for credit if they have met the course prerequisites and requirements, or to audit a credit–bearing, undergraduate academic course, consistent with campus policies governing selection of students for audit participation, if they have not met the course prerequisites and requirements. Nothing in this section shall require a public institution of higher education to provide course enrollment or audit preference for students with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities, relative to other persons seeking to enroll or audit a course. Nothing in this section shall require a public institution of higher education to include students with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities in graduate and continuing education courses.

(c) Individuals participating in higher education pursuant to subsection (a) of this section shall be included with nondisabled students in all academic and non–academic opportunities at public institutions of higher education so that they have inclusive educational opportunities to acquire academic, career, technical and independent living skills that prepare them for adult life including, but not limited to, employment and civic engagement. Individual supports and services, shall be made available to support inclusion in academic courses, extracurricular activities and other aspects of campus life; provided however that nothing in this section shall supersede subsections (b) and (d) of this section.

(d) Public institutions of higher education shall not be required to bear the costs of individual supports and services that exceed the kind of supports and services generally provided by public institutions of higher education. The costs associated with supporting participation in public institutions of higher education under this section shall be an approved expense as a special education service pursuant to section 5 of chapter 71B of the General Laws, provided that a student's participation in higher education is addressed in the student's Individualized Education Program required by section 3 of chapter 71B of the General Laws for students ages 18 to 21 years old, inclusive and provided further that said student is considered to have a severe intellectual disability, severe autism, or other severe developmental disability, and further provided that in the case of students who are age 18 or 19, shall be limited to students with severe disabilities who have been unable to obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under section 1D of chapter 69 of the General Laws, and provided further that in the case of students ages 20 or 21, shall be limited to students with severe disabilities who have been unable to obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under section 1D of chapter 69 of the General Laws and to students already determined eligible for special education who have also been determined by the IEP Team to have severe functional delays impacting independent living , communication, or behavioral skills resulting in skills that are significantly below chronological age; and further provided that nothing in this section shall impose any additional cost on a school committee beyond the cost of what is required under state or federal special education law. (ii) subject to the availability of federal funding and appropriation, provided under section 74 of Chapter 6 for individuals who are determined eligible for vocational rehabilitation services; provided that access to higher education assists in the attainment of an identified employment goal, as determined by the agency, consistent with all applicable regulations, and subject to the development of the Individualized Plan for Employment; (iii) subject to appropriation, provided under chapter 19B of the General Laws for individuals 22 years of age or older, who are determined eligible for services; provided, that the individual supports and services are determined to be an appropriate support, of the type, frequency and duration identified in an assessment conducted by the department, and subject to the development of the annual individual support plan Costs of participation may also be covered by any other public or private sources available to the student.

(e) Participating individuals under this section shall be required to follow the public institution of higher education's student behavioral policies, including the student code of conduct, antidiscrimination and sexual violence policies, provided that the public institution of higher education shall provide such policies in accessible formats and shall provide reasonable accommodations for these individuals in any process instituted thereunder.

(f) Nothing in this section shall be construed to impose any liability against any school district or any public institution of higher education, including trustees, officers, administrators, or employees of said school district or institution of higher education.

(g) Nothing in this section shall be construed as creating or imposing a specific duty of care, nor shall this section create or impose a private right of action against any school district or any public institution of higher education, including trustees, officers, administrators, or employees of said school district or institution of higher education.

(h) Nothing in this section shall be construed to prohibit institutions of higher education from offering opportunities to include said individuals over age 21 on a discretionary basis .

SECTION 10. Section 2 of chapter 71B of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting in line 87 a new paragraph with the following words:– Older students ages 18–21, inclusive, with severe intellectual disabilities, severe autism spectrum disorders, and other severe developmental disabilities who are receiving special education services

may also have program options including continuing education, participation in credit and noncredit courses that include students without disabilities in an institution of higher education, development of independent living skills, development of skills necessary for employment, and development of skills to access community services. Participation of said students in institutions of higher education under this section shall be considered an approved expense as a special education service pursuant to section 5 of chapter 71B of the General Laws, provided that this service is addressed in the student's Individualized Education Program.

SECTION 11: Said chapter 71B, as so appearing, is hereby amended by inserting after section 16 the following section: –

Section 17: Inclusive Concurrent Enrollment Initiative

(a) Subject to appropriation, the department of higher education shall develop and administer a discretionary grant program to provide monies to school committees and public institutions of higher education partnering to offer inclusive concurrent enrollment initiative options for school-aged children, ages 18 to 21, inclusive with disabilities. The program shall be limited to students : (i) who are considered to have severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities; and (ii) for students age 18 to 19, inclusive, shall be limited to students with severe disabilities who have been unable to achieve the competency determination necessary to pass the statewide assessment test pursuant to section 1D of chapter 69; and (iii) for students ages 20 or 21, shall be limited to students with severe disabilities who have been unable to obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under section 1D of chapter 69 of the General Laws and to students determined by the IEP Team to have severe functional delays impacting independent living , communication, or behavioral skills resulting in skills that are significantly below chronological age; provided that public institutions of higher education may also include students with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities over the age of 21 who have been unable to obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under section 1D of chapter 69 of the General Laws, with planning or implementation grants available through said discretionary grant program .

(b) The grant program shall enable school committees to partner with public institutions of higher education in order to assist in meeting the transitional needs of eligible students pursuant to subsection (a), which shall include facilitating movement from school to post-school activities and competitive employment. Said grant program shall be based on a results oriented process focused on improving academic and functional achievement in accordance with the provisions of the federal Individuals with Disabilities Education Act.

(c) The grant program shall support participation of any relevant state or other agency serving students with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities, including, but not limited to, the department of developmental services, the Massachusetts rehabilitation commission or other vocational rehabilitation agency or organization to support student academic success, participation in student life of the college community and competitive employment provided that: Massachusetts rehabilitation commission participation shall be subject to the availability of federal funding and appropriation, provided under section 74 of Chapter 6 for individuals who are determined eligible for vocational rehabilitation services, provided that access to higher education assists in the attainment of an identified employment goal, as determined by the agency, consistent with all applicable regulations, and subject to the development of the Individualized Plan for Employment; and further provided that the department of developmental services participation shall be subject to appropriation, provided under chapter 19B of the General Laws for individuals 22 years of age or older, who are determined eligible for services; provided, that the individual supports and services are determined to be an

appropriate support, of the type, frequency and duration identified in an assessment conducted by the department, and subject to the development of the annual individual support plan

(d) The grant program shall support partnerships that provide : (i) participation in credit-bearing and non-credit courses that include students without disabilities, including participation in credit-bearing courses in audit status for students who may not meet course prerequisites; (ii) participation in on-campus student life activities; (iii) preparation for competitive employment; (iv) the waiver of tuition for courses by the public institution of higher education; (v) the provision of supports and services necessary to facilitate a student's participation and support inclusion in academic courses, extracurricular activities, internships, work experiences and other aspects of the institution's postsecondary program; (vi) education, training and technical assistance for teachers, faculty and personnel regarding strategy and teaching methodology to achieve successful inclusion of individuals with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities; (vii) full inclusion of students with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities with nondisabled students in all aspects of higher education including, but not limited to, academic and social activities; and (viii) the utilization of person-centered planning in the development of the course of study for each participating student. Partnerships with institutions of higher education that offer dormitory living may also include opportunities for students with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities to live in residential housing offered to nondisabled students.

(e) The department of higher education shall establish an inclusive concurrent enrollment advisory board to advise the department on efforts to implement inclusive concurrent enrollment and to participate in educational outreach efforts related to inclusive concurrent enrollment. The inclusive concurrent enrollment advisory board shall include the following members or their designees: the inclusive concurrent enrollment coordinator, who shall serve as chair; the secretary of education, the commissioner of higher education; the commissioner of elementary and secondary education; the commissioner of the department of developmental services; the commissioner of the Massachusetts rehabilitation commission; a representative of the Massachusetts Administrators for Special Education; a representative of the Massachusetts Association of School Committees; a representative of the Massachusetts Association of School Superintendents; a representative of Massachusetts Advocates for Children, Inc.; a representative of the Federation for Students with Special Needs, Inc.; a representative of the Institute for Community Inclusion; at least 2 representatives of school districts, and public institutions of higher education that have successfully implemented inclusive concurrent enrollment initiatives, to be appointed by the chair; and 2 students who are participating or have participated in an inclusive concurrent enrollment program, to be appointed by the chair. The inclusive concurrent enrollment advisory board shall meet at least quarterly. Members of the advisory board shall serve without compensation.

(f) Subject to appropriation, the department of higher education shall designate an inclusive concurrent enrollment coordinator to manage grant administration and coordinate reporting.

SECTION 12. The secretary of education and the secretary of health and human services shall, as necessary, develop inter-agency agreements, policies and practices with the department of higher education, the department of elementary and secondary education, public institutions of higher education, school committees, the department of developmental services, the Massachusetts rehabilitation commission and other relevant agencies in order to maximize federal financial participation through Medicaid, maximize federal financial aid, support institutions of higher education offering opportunities to include individuals with severe intellectual disabilities, severe autism spectrum disorders or other severe developmental disabilities over age 22 pursuant to section 11 (a) of this act, and address any other issues necessary for successful inclusion of students with severe intellectual disabilities, severe autism spectrum disorders or other severe

developmental disabilities in higher education.

SECTION 13. The department of higher education and the department of elementary secondary education, in consultation with the inclusive concurrent enrollment initiative advisory board, the executive officer of the Council of Presidents of the Massachusetts State University System or designee, the president of the University of Massachusetts or designee and the executive director of Massachusetts Community Colleges Executive Office or designee shall issue guidelines pursuant to section 17 of chapter 71B of the General Laws on or before September 15, 2020 .

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An Act Relative to Applied Behavioral Analysis

H.3715– An Act relative to applied behavioral analysis therapy

Representative Peter J. Durant (617–722–2060)

Overview: This bill is for all private and public insurance to cover the costs of ABA services for people with Down syndrome.

Bill Language:

SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the following section:–

Section 29. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy and applied behavior analysis services. For purposes of this section, “Down syndrome” means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

SECTION 2. Chapter 118E of the General Laws is hereby amended by inserting after section 10L the following section:–

Section 10M. The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall provide coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy and applied behavior analysis services. For purposes of this section, “Down Syndrome” means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

SECTION 3. Chapter 175 of the General Laws is hereby amended by inserting after section 47KK the following section:–

Section 47LL. Any policy, contract, agreement, plan or certificate of insurance issued, delivered or

renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy and applied behavior analysis services. For purposes of this section, "Down syndrome" means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

SECTION 4. Chapter 176A of the General Laws is hereby amended by inserting after section 8MM the following section:-

Section 8NN. Any contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within the commonwealth shall provide coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy and applied behavior analysis services. For purposes of this section, "Down syndrome" means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

SECTION 5. Chapter 176B of the General laws is hereby amended by inserting after section 4MM the following section:-

Section 4NN. Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth shall provide coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy and applied behavior analysis services. For purposes of this section, "Down syndrome" means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

SECTION 6. Chapter 176G of the General Laws is hereby amended by inserting after section 4EE the following section:-

Section 4FF. An individual or group health maintenance contract that is issued or renewed shall provide coverage for the treatment of Down syndrome through speech therapy, occupational therapy, physical therapy and applied behavior analysis services. For purposes of this section, "Down syndrome" means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

MASSACHUSETTS DOWN SYNDROME CONGRESS SUPPORT BILLS

Education

An Act Relative to Certification of Interpreters in Educational Settings

H.417– An Act relative to the certification of interpreters in educational settings

Representative Antonio Cabral (617–722–2017) and Senator James Welch (617–722–1660)

Overview: This legislation directs the Department of Elementary and Secondary Education (DESE) to create standards and competencies for the training, hiring and use of interpreters in educational settings in order to provide limited English proficient (LEP) parents and students with competent interpretation services, as required by federal and state law. Implementation of the bill would be phased in, focusing initially on school districts designated as chronically underperforming, in order to enhance the ability to reach the goals of the districts' turnaround plans. Implementation in other districts would be delayed until the department determines appropriate.

Bill Language:

SECTION 1. The purpose of this Act is to support implementation of language access rights that are firmly embedded in federal law as well as founded on liberty and privacy interests protected by the due process clause and equal protection clauses of the Fourteenth Amendment, as recognized by the United States Supreme Court. Federal and state law, and implementing regulations, require school committees to communicate with Limited English Proficient (LEP) parents in a language that parents can understand by providing competent, trained interpreters in order to ensure that LEP Parents have access to and participation in their children's educational programs to the same extent as English-speaking parents. While the right to effective language access with appropriate, competent interpreters is well established, this Act sets forth a clear system of certification for interpreters who are qualified to interpret in educational settings. This will assist schools in delivering the language access services they are required to provide in an effective and efficient manner. Further, this Act will be implemented in phases, with the requirement first going into effect in school districts designated as chronically underperforming pursuant to MGL Chapter 69 section 1K. The initial implementation of the Act in schools designated as chronically underperforming will provide these districts with an additional tool to help them reach the required annual goals of their turnaround plan. This phased implementation will also allow for close examination of the implementation of this Act and determine and resolve any barriers to full implementation, thus ensuring effective and efficient operation of the Act when it is implemented statewide

SECTION 2. Chapter 69 of the General Laws is hereby amended by adding the following section:

Section 37. Certification of Interpreters in educational settings.

(1)The following words, unless the context clearly indicates otherwise, shall have the following meanings:

“Limited English Proficient (LEP) Person” means individual who has a limited ability to read, write, speak, or understand English because the person uses primarily a language other than English. This includes LEP parents or guardians of minor children, regardless of the children's LEP status.

“Interpretation” means the immediate oral rendering of an utterance from a source language into a target language.

“Interpreter” means a person who is readily able to interpret spoken language simultaneously and consecutively from English to the target language and from the target language to English.

“Certified Interpreter” means an interpreter who has been duly certified by the Department of Elementary and Secondary Education in accordance with MGL ch 69 section 37(4).

“Competent interpreter” means interpreter who has not been duly certified by the Department of Elementary and Secondary Education but satisfies the requirements of federal and state law.

“Parent” means a natural, adoptive, or foster parent of a child, a guardian, or an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare.

(2)The Department of Elementary and Secondary Education shall adopt regulations addressing:

(a) Specific subject matter knowledge, skills, and competencies required of interpreters practicing in educational settings. Skills and competencies shall include, but not be limited to, fluency in the languages interpreted, familiarity with specialized concepts and terms used in the planning and implementation of educational programming, and awareness of the interpreter’s function in educational settings, including issues of confidentiality and ethics.

(b) Confidentiality and ethics for interpreters working in educational settings. The proposed regulations shall ensure that interpreters: protect confidentiality, remain impartial, interpret communications accurately and objectively, demonstrate familiarity with educational and psychological terminology and practices, demonstrate awareness of and sensitivity to the impact of cultural differences, understand the professional role and boundaries of interpreters and are informed of procedures and consequences for ethical violations.

(c) A system for assessment and certification of individuals seeking to provide interpreter services in educational settings, including requirement to incorporate renewal and maintenance of the individual’s certification. The department shall establish and implement an assessment process to identify individuals who have gained the competencies required in (a–b) above and are granted certification to interpret in educational settings. The assessment process shall include, but not be limited to, assessing grammatical awareness, vocabulary, and the ability to interpret effectively from one language to another; understanding of the roles and responsibilities of an interpreter within the educational setting; understanding of concepts and vocabulary related to educational standards, curricula, planning, and student development; and knowledge of guidelines for professional conduct, including ethics and confidentiality. In creating or identifying examinations to be used as part of the assessment process for interpreters in educational settings, the department may look to existing resources, assessments and examinations administered to interpreters in other fields, including but not limited to certified court interpreters pursuant to M.G.L. c. 221C, § 7; and medical interpreters pursuant to M.G.L. c. 111, § 25J, and assess the relevancy and cost efficiency of adopting said examinations, assessments, or aspects thereof, as part of the assessment of interpreters in educational settings.

(d) Standards for renewal and maintenance of the individuals’ credentials as well as requirements for reassessment and continued professional development.

(3) The Department shall oversee the process for reviewing assessments of individuals seeking certification to provide interpreter services in educational settings pursuant to section 37(3)(c). The Department shall maintain a list of all individuals who have demonstrated the competencies

necessary to be deemed certified to interpret in educational settings. The Department shall ensure this list remains current.

(4) Only individuals who have been duly certified by the Department pursuant to section 37(3)(c) shall provide interpretation services in IEP meetings, school discipline hearings, meetings held to address bullying concerns, and other meetings or communications relevant to a student's educational rights, safety, or access to equal educational opportunities. In all other instances, school committees must first attempt to secure certified interpreters, and, if certified interpreters are unavailable, school committees may engage the services of competent interpreters who have not been certified by the Department.

(5)(a) Section 37 (1), (2), (3) of this act shall take effect on January 1, 2021

(b) Section 37 (4) of this act shall take effect on July 1, 2021 only in school districts designated as chronically under performing pursuant to MGL Chapter 69 section 1K in order to enhance the ability of said districts to reach the required annual goals of their turnaround plan, including but not limited to the goals focused on closing the achievement gap for limited English-proficient students and the goals focused on increasing the engagement of parents and families with limited English proficient children in order to maximize the rapid achievement of said students.

(c) With respect to school districts in the Commonwealth other than school districts designated as chronically under performing pursuant to MGL Chapter 69 section 1K, Section 37(4) shall take effect when certified as appropriate by the Department in a report to the general court.

An Act to Improve Augmentative and Alternative Communications and Opportunities for Children with Disabilities

H.403 – An Act that require training and preparation in the use of augmentative and alternative communication for students who are nonverbal or who have limited speech for certain educator licenses.

Representative Christine Barber (617-722-2220)

Overview: This legislation amends teacher license regulations to require that all teachers who apply for an initial Massachusetts educator license receive instruction on the appropriate use of augmentative and alternative communication devices for children with disabilities who are nonverbal or who have limited speech. This bill will help improve outcomes for students as well as reduce costs for school districts by facilitating inclusion and supporting placement of children with disabilities who are nonverbal or who have limited speech in the least restrictive environment.

Bill Language:

SECTION 1. Chapter 71 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end of section 38G the following paragraph:-

All teachers who apply for an initial Massachusetts educator license on or after December 31, 2020 shall receive training and preparation in the use of augmentative and alternative communication for students who are nonverbal or who have limited speech, as a requirement for such licensure. Such training and preparation shall include coursework in augmentative and alternative communication and practical experience in the classroom with children who use augmentative and alternative communication, including but not limited to children with Autism Spectrum Disorder, acquired brain

injury, cerebral palsy and other disabilities that result in limited or no verbal abilities; provided that practical experience for regular education teachers shall include experience in the classroom with students who use augmentative and alternative communication, and if classroom settings are unavailable practical experience may include other types of interactions with and observations of individuals who use augmentative and alternative communication. Teacher and specialist teacher licensure requirements, subject matter knowledge requirements, professional standards for teachers, and educator preparation program approval requirements shall adequately address augmentative and alternative communication competencies to educate students with disabilities who are nonverbal or have limited verbal abilities; provided that a teacher shall not be subject to such requirements if they are applying for a second or subsequent licenses. The board shall require that the individual professional development plans required under section 38G of Chapter 71 address the learning needs of students who are nonverbal or have limited speech.

An Act Relative to Ensuring Equal Access to Education for All Students

H.432– An Act to ensure equal access to education, including special education services, for all students in Massachusetts.

Representative Marjorie Decker (617–722–2060)

Overview: This bill will make information available to the public in order to assist the Commonwealth and local communities address barriers to education that students may face due to bias and discrimination on the basis of race, ethnicity, disability, English learner status, and/or sex.

This legislation directs DESE to publish data on the delivery of educational opportunities to students in a manner that will help ensure equity regardless of a student’s race, primary language, disability, or sex. With this information, educators will be better positioned to address identified disparities. In the future, this legislation will require that DESE publish data in a similar manner regarding access to special education services for students throughout the Commonwealth.

Bill Language:

SECTION 1. Section 1I of Chapter 69 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the fifth paragraph the following paragraph: –
The department shall annually analyze and publish in an easily accessible and user friendly manner the student-specific data provided by school committees and charter schools pursuant to: section 1I of Chapter 69 of the General Laws; sections 37H, 37O, 37P, and 89 of Chapter 71 of the General Laws; sections 3 and 7 of Chapter 71A of the General Laws; section 6 of Chapter 71B of the General Laws; section 2A of Chapter 72 of the General Laws; statewide assessment data utilized as a basis for competency determinations pursuant to section 1D of chapter 69 of the General Laws; and any other data required by the federal office of education, provided that said data required by the federal department of education is also student-specific data and can be cross-tabulated. The department shall provide said data in a manner that can be easily cross-tabulated by, at a minimum, the following: each major racial and ethnic group; sex; economic status; high needs status; English learner status; and category of disability, if applicable. The information shall be presented statewide and also disaggregated by school committee, charter school, and individual school in a manner that is anonymized and does not reveal personally identifiable information about an individual student. Publication shall include, but need not be limited to, availability on the department's worldwide web site.

SECTION 2. Said Section 11 of Chapter 69 of the General Laws, as appearing in the 2016 Official Edition, is hereby further amended by striking out, in line 235, the word “and” the second time it appears.

SECTION 3. Said Section 11 of Chapter 69 of the General Laws, as appearing in the 2016 Official Edition, is hereby further amended by striking out, in line 237, the period and inserting in place thereof the following words: – ; and

(i) the number of children, by grade level, within each disability category receiving specific special education services, including but not limited to: each related service; assistive technology, including but not limited to augmentative and alternative communication; supplementary aids and services; vocational education; travel training; and community-based transition services; provided further that school districts and charter schools shall only be required to provide said information regarding number of children receiving specific special education services when the department provides school committees with an online web-based IEP application aligned with the special education services requiring reporting under this section.

SECTION 4. Section 6 of Chapter 71B of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the first sentence the following sentences: – School committees shall also annually report to the department, pursuant to regulations promulgated by the department, delivery of specific special education services by each major racial and ethnic group, sex, economic status, and English learner status of children by age level, including but not limited to delivery of: each related service; assistive technology, including but not limited to augmentative and alternative communication; supplementary aids and services; vocational education; travel training; and community-based transition services. This annual reporting by school committees to the department shall only be required when the department provides school committees with an online web-based IEP application aligned with the special education services requiring reporting under this section. This information shall be cross-tabulated by, at a minimum, the following: each major racial and ethnic group; sex; economic status; and English learner status. The information shall be presented statewide and also disaggregated by school committee, charter school, and individual school in a manner that is anonymized and does not reveal personally identifiable information about an individual student.

SECTION 5. Said section 6 of Chapter 71B of the General Laws, as appearing in the 2016 Official Edition, is hereby further amended by inserting, in line 8, after the word “assignment” the following words: – or pattern of delivery of the aforementioned specific special education services.

Safety

Nicky’s Law

H.101, S.71 — An Act to protect persons with intellectual or developmental disability from abuse.

Representative Linda Campbell (617-722-2380) and Senator Michael Moore (617-722-1485)

Overview: This bill establishes a registry of care providers substantiated of abuse of an individual with autism or intellectual and developmental disabilities within the DDS system. The bill will prevent serial abuse and addresses due process for care providers.

Bill Language:

SECTION 1. Section 4H of chapter 7 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the fourth paragraph the following paragraph:–

In accordance with section 15 of chapter 19C, a care provider against whom a substantiated finding of registrable abuse has been made or whose appeal to have the care provider’s name removed from

the registry of abusers of persons with intellectual or developmental disabilities was denied shall be entitled to appeal a final decision of the disabled persons protection commission at a hearing before the division.

SECTION 2. Chapter 19C of the General Laws is hereby amended by adding the following section:-

Section 15. (a) As used in this section the following words shall have the following meanings, unless the context requires otherwise:-

“Care provider”, a person who is employed by, or contracts with, the department or an employer to provide services or supports to a person with an intellectual or developmental disability.

“Department”, the department of developmental services.

“Employer”, an entity that provides services or treatment to persons with intellectual or developmental disabilities, pursuant to: (i) a contract or agreement with the department; (ii) funding administered by the department; or (iii) a license under section 15 or 15A of chapter 19B.

“Registry”, the registry of abusers of persons with intellectual or developmental disabilities.

“Registrable abuse”, an act or omission of a care provider that results in serious physical injury or serious emotional injury, or constitutes abuse per se, of a person with an intellectual or developmental disability; provided, however, that “registrable abuse” shall not include instances in which the commission determines that, based on the nature of the act or omission, the care provider is not likely to pose a serious risk of abuse to a person with an intellectual or developmental disability.

(b) The commission shall, subject to appropriation, establish and maintain a registry of care providers against whom the commission has made a substantiated finding of registrable abuse.

(c) If, after notice and an opportunity to respond in writing, the commission substantiates a finding of registrable abuse, the commission shall include the care provider’s name on the registry; provided, however, that the commission shall provide notification to the care provider of the care provider’s right to appeal a final decision of the commission to the division of administrative law appeals pursuant to section 4H of chapter 7 and of the care provider’s right to petition for the removal of the care provider’s name from the registry pursuant to subsection (g); provided further, that if the care provider appeals the commission’s final decision to the division of administrative law appeals, the commission shall not enter the care provider’s name on the registry unless the division affirms the commission’s final decision by finding that the Commonwealth has established the care providers responsibility for registerable abuse, based on a preponderance of the evidence. The commission shall notify the department and the last known employer of the care provider of the placement on the registry.

(d) Prior to employing, or contracting with, a person as a care provider, the department or an employer shall determine whether the person’s name appears on the registry. Neither the department nor an employer shall hire, utilize the services of or employ a person whose name appears on the registry.

If an employer fails to meet the requirements of this subsection, the commission may: (i) impose a monetary fine of not more than \$5,000; (ii) recommend the revocation or downgrade of a license maintained by the employer; (iii) recommend the forfeiture of a state contract; or (iv) impose a combination of such fine, recommendation of license revocation or downgrade or recommendation of state contract forfeiture.

(e) The information maintained in the registry, including the record of its proceedings, shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or chapter 66. The commission, the division of administrative law appeals and the department shall keep information contained in the registry confidential and shall not disseminate information about a care provider to anyone other than said care provider unless it is necessary for the consideration of a current or prospective care provider or as provided by law.

(f) Annually, the commission shall initiate an audit of the registry to ensure compliance with this section, including that all substantiated findings of registrable abuse were added to the registry and proper notification was made to the department, employers and care providers. A summary of the audit shall be filed not later than December 31 of each year with the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on children, families and persons with disabilities. The summary shall include, but not be limited to: (i) the number of people on the registry; (ii) the number of people who were added to the registry in the last calendar year; (iii) the number of substantiated findings of registrable abuse that were appealed in the last calendar year; (iv) the number of substantiated findings of registrable abuse that were overturned on appeal in the last calendar year; (v) the number of requests made by employers for information from the registry in the last calendar year and the number of such requests that were granted; (vi) the total number of instances in the last calendar year in which the commission failed to notify the department or the last known employer of a care provider who was placed on the registry and the reasons for such failures; and (vii) the number of employers found to have failed to meet the requirements of subsection (d) in the last calendar year. Information contained in the summary shall be in a de-identified and aggregate form.

(g) A person whose name appears on the registry may petition the commission to have the person's name removed from the registry; provided, however, that such a petition shall not be considered until 5 years after the placement of the person's name on the registry or 5 years after the conclusion of any prior petition for the removal of the person's name from the registry, whichever is later.

(h) The commission shall adopt regulations to implement this section.

SECTION 3. Section 9B of chapter 30 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 32, the words "thirty-one or chapter one hundred and fifty E" and inserting in place thereof the following words:-

"31 or chapter 150E or a hearing under section 4H of chapter 7 related to a care provider's placement on the registry of abusers of persons with intellectual or developmental disabilities established under section 14 of chapter 19C".

SECTION 4. Notwithstanding any general or special law to the contrary, section 14 of chapter 19C of the General Laws shall apply to all substantiated findings of registrable abuse made by the disabled persons protection commission on or after January 1, 2020, regardless of when such registrable abuse took place.

SECTION 5. This act shall take effect on January 1, 2020.

Autism Police Training

H.2139, S.1443 — An Act relative to criminal justice training regarding autistic persons

Representative Paul Tucker (617-722-2070) and Senator Michael Moore (617-722-1485)

Overview: This bill will require training of law enforcement officers and correction officers in the commonwealth in appropriate and safe interactions with persons on the autism spectrum.

Bill Language:

Chapter 6 of the General Laws, as appearing in the 2016 Official edition, is hereby amended by inserting after section 116F the following:–

Section 116G: (a) The municipal police training committee shall establish within the recruit basic training curriculum a course for regional and municipal police training schools on or before January first, two thousand and twenty for the training of law enforcement officers and correction officers in the commonwealth in appropriate interactions with persons on the autism spectrum, and also shall develop guidelines for law enforcement response to individuals on the autism spectrum who are victims or witnesses to crime, or suspected or convicted of crime.

The course of instruction and the guidelines shall stress positive responses to such individuals, de-escalating potentially dangerous situations, understanding of the different manner in which such individuals process sensory stimuli and language, and appropriate methods of interrogation.

The training presenters shall always include autistic adults. Where appropriate, the training presenters shall also include experts on autism spectrum disorders who also have expertise in the law enforcement or corrections field.

As used in this section, “law enforcement officer” shall mean any officer of a local police department, capital and state police and any campus police officer of the University of Massachusetts and state universities who exercise police powers, and “correction officer” shall mean any officer tasked with the custody, care, or transport of incarcerated or detained persons. As used in this section, “autism spectrum disorder” shall mean a disability on the autism spectrum, which includes but may not be limited to autistic disorder, Asperger’s disorder, pervasive developmental disorder not otherwise specified, childhood disintegrative disorder, nonverbal learning disorder, or Rhett’s Syndrome, as defined in current and future versions of such professional guidelines as the Diagnostic and Statistical Manual of the American Psychiatric Association. As used in this section, “agency” shall mean the ability to make independent decisions and act in one’s own best interests.

(b) The course of basic training for law enforcement officers and correction officers shall, no later than January first, two thousand and twenty, at least six hours of instruction in the procedures and techniques described below:

(1) The nature and manifestations of autism spectrum disorders.

(2) Appropriate techniques for interviewing or interrogating an individual on the autism spectrum, including techniques to ensure legality of statements made, and techniques to protect the rights of the interviewee.

(3) Techniques for locating an individual on the autism spectrum who runs away and is in danger, and returning said individual while causing as little stress as possible to the individual.

- (4) Techniques for recognizing an autistic individual's agency while identifying potentially abusive or coercive situations.
- (5) The legal duties imposed on police officers to offer protection and assistance, including guidelines for making felony and misdemeanor arrests, and appropriate techniques for arrest and restraint on an autistic individual.
- (6) Techniques for de-escalating a potentially dangerous situation to maximize the safety of both the law enforcement officer or correction officer and the autistic individual.
- (7) Techniques for differentiating between an individual on the autism spectrum from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an autistic individual.
- (8) Procedures to ensure the safety and wellbeing of autistic individuals in a correctional facility.
- (9) The impact of interaction with law enforcement officers or correction officers on autistic individuals.
- (c) All law enforcement recruits shall receive the course of basic training for law enforcement officers, established in (a) and (b), as part of their required certification process.
- (d) The course of basic training for law enforcement officers shall be taught as part of the "crisis intervention and conflict resolution" and "people with special needs" components of the recruit academy training, so that there will not be an increase in the currently required four hundred and eighty hours of recruit training curriculum.
- (e) All correction officer recruits shall receive the course of basic training for correction officers, established in in (a) and (b), as part of their required certification process.
- (f) The Commissioner of Corrections periodically may include within the in-service training curriculum a course of instruction on autistic persons consistent with the provisions of (b)(1) through (b)(9) of this act.
- (g) The municipal police training committee periodically may include within its in-service training curriculum a course of instruction on autistic persons disorder consistent with the provisions of (b)(1) through (b)(9) of this act.

An Act Requiring the monitoring and documentation of school discipline

H.3758-

Overview: An Act requiring the monitoring and documentation of school discipline.

SECTION 1. Chapter 71B of the General Laws is hereby amended by adding the following section:-

Section 17. (a) For purposes of this section, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Charter School", commonwealth charter schools and Horace Mann charter schools unless

specifically stated otherwise.

"School business day" means a day that campus or school district administrative offices are open.

"Staff member" means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

"Time-out" means a behavior management technique in which the student is separated from other students for a limited period in a setting: (i) that is not locked; and (ii) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(b) (1) Any school district or charter school in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled, shall, upon a written request pursuant to paragraph (2), place, operate and maintain 1 or more video cameras in each self-contained classroom or other special education setting in which a majority of the students in regular attendance are: (A) provided special education and related services; or (B) assigned to a self-contained classroom or other special education setting for at least 50 per cent of the instructional day.

(2) For purposes of this subsection:

(A) a parent of a child who receives special education services in 1 or more self-contained classrooms or other special education settings may request in writing that video monitoring be provided to the school or campus at which the child receives those services;

(B) a board of trustees or school committee may request in writing that equipment be provided to 1 or more specified schools at which 1 or more children receive special education services in self-contained classrooms or other special education settings;

(C) the principal or assistant principal of a school at which 1 or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the principal's or assistant principal's school; and

(D) a staff member assigned to work with 1 or more children receiving special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the school at which the staff member works.

(c) Each school district or charter school shall designate an administrator at the primary administrative office of the district or school with responsibility for coordinating the provision of equipment to schools in compliance with this section.

(d) A written request pursuant to paragraph (2) of subsection (b) shall be submitted and acted on as follows:

(1) a parent, staff member, or assistant principal shall submit a request to the principal or the principal's designee of the school addressed in the request, and the principal or designee shall provide a copy of the request to the administrator designated under subsection (c);

(2) a principal shall submit a request by the principal to the administrator designated under subsection (c); and

(3) a board of trustees or school committee shall submit a request to the administrator designated under subsection (c) and the administrator shall provide a copy of the request to the principal or the

principal's designee of the school addressed in the request.

The district or school shall provide a response to a request made pursuant to paragraph (2) of subsection (b) that authorizes the request or states the reason for denying the request not later than the seventh school business day after receipt of the request by the person to whom it shall be submitted under this subsection.

(c) A school that places a video camera in a classroom or other special education setting in accordance with subsection (b) shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under subsection (b), for the remainder of the school year in which the school received the written request, unless the requestor withdraws the request in writing. If for any reason a school discontinues operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school shall notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request under subsection (b). Not later than the tenth school day before the end of each school year, the school shall notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year under subsection (b) submits a new request.

(d) Video cameras operated pursuant to this section shall be capable of: (1) covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out, except that the inside of a bathroom or any area in the classroom or setting in which a student's clothes are changed shall not be visually monitored; and (2) recording audio from all areas of the classroom or setting, including a room attached to the classroom or setting used for time-out.

(e) Before a school activates a video camera in a classroom or other special education setting pursuant to this section, the school shall provide written notice of the placement and use of such video monitoring to all school staff and to the parents of each student attending class or engaging in school activities in the classroom or setting to be monitored.

(f) A district or charter school shall retain video recorded from a camera operated pursuant to this section for at least 6 months from the date the video was recorded. If a person pursuant to subsection (j) requests to view a video recording from a video camera placed pursuant to this section, a school district or charter school shall retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, the district or school shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

(g) A school district or charter school may solicit or accept gifts, grants and donations from any person for use in placing video cameras in classrooms or other special education settings under this section.

(h) This section shall not:

(1) waive any immunity from liability of a school district or charter school, or of district or school officers or employees; or

(2) create any liability for a cause of action against a school district or charter school or against district or school officers or employees.

(i) A school district or charter school shall not:

(1) permit regular or continual monitoring of video recorded under this section; or

(2) use video recorded under this section for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services in a self-contained classroom or other special education setting.

(j) A video recording of a student made pursuant to this section is confidential and may not be released or viewed except as provided in this section. A school district or charter school shall release a recording for viewing by:

(1) an employee who is involved in an alleged incident that is documented by the recording and has been reported to the district or school, on request of the employee;

(2) a parent or guardian of a student who is involved in an alleged incident that is documented by the recording and has been reported to the district or school, on request of the parent;

(3) appropriate personnel from the department of children and families or the department of elementary and secondary education as part of an investigation;

(4) a peace officer, school nurse, district administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the board of trustees, school committee or governing body of the school district or the charter school in response to a complaint or an investigation of district or school personnel or a complaint of abuse committed by a student; or

(5) appropriate department or office of educator licensure personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording shall not be considered in violation of this subsection.

(k) If a person under clauses (4) or (5) of subsection (j) who views the video recording believes that the recording documents a possible violation of section 37G of chapter 71 or the regulations promulgated thereunder, the person shall notify the department of elementary and secondary education. If any person under clauses (3), (4) or (5) of subsection (j) who views the recording believes that the recording documents a possible violation of district or school policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of district or school policy relating to the neglect or abuse of a student may be used as part of a disciplinary action against district or school personnel and shall be released at the request of the student's parent or guardian in a legal proceeding. This subsection does not limit the access of a student's parent or guardian to a record regarding the student under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. section 1232g, or any other law.

(l) The commissioner of elementary and secondary education shall adopt rules to implement and administer this section, including rules regarding the special education settings to which this section applies.

(m) A school district or charter school policy relating to the placement, operation, or maintenance of video cameras pursuant to this section shall:

(1) include information on how a person may appeal an action by the district or school that the person believes to be in violation of this section or a policy adopted in accordance with this section;

(2) except as provided by clause (4), require that a school begin operation of a video camera in compliance with this section not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized unless the department grants an extension of time;

(3) permit the parent of a student whose placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed under this section to make a request for the video camera by the later of:

(A) the date on which the current school year ends; or

(B) the 10th school business day after the date the parent is notified of the placement; and

(5) if a request is made by a parent in compliance with clause (4), unless the department grants an extension of time, require that a school begin operation of a video camera in compliance with this section not later than the later of:

(A) the 10th school day of the fall semester; or

(B) the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

(n) A school district, charter school, parent, staff member, or administrator may request an expedited review by the department of the district or charter school's:

(1) denial of a request made under this section;

(2) request for an extension of time to begin operation of a video camera pursuant to subsection (m); or

(3) determination to not release a video recording to a person described by subsection (j).

(o) If a school district, charter school, parent, staff member, or administrator requests an expedited review under subsection (n), the department shall notify all other interested parties of the request.

If an expedited review has been requested under subsection (n), the department shall issue a preliminary judgment as to whether the district or charter school is likely to prevail on the issue under a full review by the department. If the department determines that the district or charter school is not likely to prevail, the district or charter school shall fully comply with this section notwithstanding an appeal of the department's decision. The department shall notify the requestor and the district or charter school, if the district or charter school is not the requestor, of the department's determination.

(p) The commissioner:

(1) shall adopt rules and regulations relating to the expedited review process under subsections (n) and (o), including standards for making a determination under subsection (o); and

(2) may adopt rules and regulations relating to an expedited review process under subsections (n) and (o) for an open-enrollment charter school.

(q) The department shall collect data relating to requests made under this section and actions taken by a school district or charter school in response to a request, including the number of requests made, authorized, and denied.

(r) A video recording under this section shall be considered a record under section 13E of chapter 268.

(s) This section applies to the placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

(t) A video camera placed pursuant to this section is not required to be in operation for the time during which students are not present in the classroom or other special education setting.

SECTION 2. Chapter 71 of the General Laws is hereby amended by inserting after section 37G the following section:-

Section 37G ½. For purposes of this section, "Time-out" shall mean a behavior management technique in which the student is separated from other students for a limited period in a setting: (i) that is not locked; and (ii) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

Each school district and charter school shall require appropriate school staff persons to keep a daily tracking log for each student that is placed in a time-out space. The log shall include the student's name, the reason for separating the student from the classroom, the time spent in each individual time-out, and the staff that was present. Said logs shall be made available to students, parents or guardians and special education directors upon written request. The school district or charter school shall notify a parent or guardian any time a student receives a time-out.

SECTION 3. There shall hereby be established a task force on safety in schools, hereinafter referred to as the task force. The task force shall consist of 7 members, who shall be appointed by the governor, as follows: 1 of whom shall be a representative from the Massachusetts Teachers Association; 1 of whom shall be a medical professional who specializes in trauma in children; 1 of whom shall be a board certified behavior analyst; 1 of whom shall be an attorney with experience in special education law; 1 of whom shall be a representative from a disability advocacy group in the commonwealth; 1 of whom shall have personal experience with restraint and seclusion in school, including but not limited to a parent or teacher; and 1 of whom shall be a representative of Massachusetts Association of 766 Approved Private Schools. The task force shall study the use and effect of restraint and seclusion in schools. The task force shall submit a report, along with any recommendations for legislation to address the issues identified in the study, to the clerks of the house of representatives and the senate, and the house and senate chairs of the joint committee on children, families and persons with disabilities and the joint committee on education not later than 1 year after the effective date of this act.

Medical

Operation House Call

H.1875, S.1288 — An Act supporting individuals with intellectual and developmental disabilities

Representative Carolyn Dykema (617-722-2680) and Senator Jason Lewis (617-722-1206)

Overview: This bill established voluntary training programs for medical and nursing schools in best practices for the care of individuals with intellectual and developmental disabilities

Bill Language:

SECTION 1. Chapter 17 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following section:-

Section 21. Operation House Call Voluntary training and accreditation program to be used in medical schools, nursing schools, and other postsecondary education

(a) As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

“certified training program” a voluntary training and accreditation program, accredited by the department pursuant to this section, for medical professionals focusing on instruction of best practices for the treatment and care of patients with intellectual and developmental disabilities, including autism spectrum disorders

“department” the department of public health

“director” the director of the department of family health and nutrition, within the department of public health

“Operation House Call” an existing program, developed by The Arc of Massachusetts, that shall serve as the baseline training model

“school” any institution of higher education providing a course of study for students in medicine or related fields

(b) In conjunction with the department of developmental services, and the Arc of Massachusetts, the department shall establish and provide for the administration of a voluntary certified training program for:

(i) medical schools seeking certification under subsection (d)

(ii) nursing schools seeking certification under subsection (d)

(iii) dental schools seeking certification under subsection (d)

(iv) other institutions of higher education with a course of study for medical practitioners, including but not limited to physicians assistants, dieticians, nutritionists, physical therapists, dental hygienists, allied mental health and human service professionals seeking certification under subsection (d)

(c) The certified program established pursuant to this section shall:

(i) be structured based upon Operation House Call

(ii) be offered to participating students on a voluntary basis that is separate from their required course of study

(iii) maintain recognized standards and practices that:

(A) uphold industry standards for instructing healthcare professionals on best practices for the treatment and care for patients with individuals with intellectual and developmental disabilities, including but not limited to autism spectrum disorders;

(B) include didactic classroom instruction, experiential learning, and online learning, totaling not less than 6 hours.

(d) The department shall certify that a school offers a certified training program, as described in subsection (c), upon receipt and review that:

(i) the school has successfully delivered the certified training program to a sufficient number of participating students as mutually agreed upon by the institution and the provider of the training; and

(ii) that the program meets the minimum standards and practices, as provided in subsection (c)

(e) The director shall periodically evaluate the quality of training being provided to schools seeking certification and the integrity and efficacy of the accreditation program.

(f) The department shall prepare, publish and disseminate a list of schools certified pursuant to this section; provided, however, that the list shall be updated annually. The list shall be published in a location that is accessible to prospective students seeking to apply to attend schools in the medical field or related fields.

Dental Health

H.1916, S.1215 — An Act to improve oral health for all Massachusetts residents

Representatives Smitty Pignatelli (617-722-2210) and Kate Hogan (617-722-2199) and Senator Harriette Chandler (617-722-1357)

Overview: This bill would establish the position of advanced dental hygiene practitioner and require training about best practices for people with autism and I/DD. The DHP will perform dental services in settings as community centers, nursing homes and schools.

Bill Language:

SECTION 1. Chapter 71 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after Section 34H the following new section:—

Section 34I. A public school shall notify the parent or legal guardian of a pupil described in the second paragraph of section 57 of chapter 71 concerning the importance of oral health screenings. The department of public health in, consultation with the board of registration in dentistry, shall develop a standard form of notice containing at minimum the following: 1) information on the importance of primary teeth; 2) information on the importance of oral health to overall health as it

relates to learning; 3) contact information for local public health departments; 4) information about programs and services to access affordable dental care.

SECTION 2. Section 7 of chapter 94C of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in lines 80 and 81, the words "practical nurse or a licensed dental hygienist", and inserting in place thereof the following words:– practical nurse, or a licensed dental therapist under the supervision of a practitioner as defined in section 1 for the purposes of administering analgesics, anti-inflammatory and antibiotics only, or a licensed dental hygienist.

SECTION 3. Paragraph (a) of section 9 of said chapter 94C, as so appearing, is hereby amended by adding the following paragraph:–

A practitioner, as defined in section 1, may cause controlled substances to be administered under his direction by a licensed dental therapist, for the purposes of administering non-narcotic analgesics, anti-inflammatory and antibiotics only.

SECTION 4. Paragraph (c) of said section 9 of said chapter 94C, as so appearing, is hereby amended by adding the following paragraph:–

A licensed dental therapist who has obtained a controlled substance from a practitioner, as defined in section 1, for dispensing to an ultimate user pursuant to paragraph (a) shall return to such practitioner any unused portion of the substance which is no longer required by the patient.

SECTION 5. Subsection (a) of section 40 of chapter 111 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "disparities", in line 9, the following:–

The dental director shall be responsible for recruiting, monitoring progress of, and supporting dental health providers. The dental director shall aim to increase the delivery of preventative dental services to underserved and vulnerable populations, including but not limited to, those residing in dental health provider shortage communities and pediatric and geriatric patients.

SECTION 6. Said section 40 of said chapter 111 is hereby further amended by inserting after the word "to", in line 32, the following word:– "annual".

SECTION 7. Section 43A of chapter 112, as appearing in the 2016 Official Edition, is hereby amended by inserting after the definition of "Appropriate supervision" the following 2 definitions:–

"Board", the board of registration in dentistry or a committee or subcommittee thereof established in the department of public health pursuant to sections 9 and 19 of chapter 13, chapter 30A and sections 43 to 53, inclusive.

"Collaborative management agreement", a written agreement that complies with section B between a dental therapist and a supervising dentist, as defined in section 43A, who holds a valid license issued pursuant to section 45, who agrees to provide the appropriate level of communication and consultation with a licensed dental therapist to ensure patient health and safety.

SECTION 8. Said section 43A of said chapter 112, as so appearing, is hereby further amended by inserting after the definition of "Dental hygienist" the following definition:–

"Dental therapist", a person who has been licensed by the board to practice dental therapy under section 51B, and who has the appropriate training and works pursuant to a collaborative management agreement as provided in section 51B.

SECTION 9. Said section 43A of said chapter 112, as so appearing, is hereby further amended by adding the following definition:–

"Supervising dentist", a dentist licensed in Massachusetts who is a provider enrolled in the division of medical assistance, or who works for an entity that is a provider enrolled in division of medical assistance, who maintains an active patient list and routinely provides care, and who enters into a collaborative management agreement with a licensed dental therapist.

SECTION 10. Said chapter 112, as so appearing, is hereby further amended by inserting after section 51A the following section:–

Section 51B. (a) Any person of good moral character, who: (i) is a graduate of a master's level dental therapist education program that includes both dental therapy and dental hygiene education, or an equivalent combination of both dental therapy education and dental hygiene education, if all education programs are accredited by the Commission on Dental Accreditation and provided by a post–secondary institution accredited by the New England Association of Schools and Colleges, Inc.; (ii) passes a comprehensive, competency–based clinical examination that is approved by the board and administered by a recognized national or regional dental testing service that administers testing for dentists and other dental professionals or equivalent examination administered by another entity approved by the board; and (iii) obtains a policy of professional liability insurance and shows proof of such insurance as required by rules and regulations shall, upon payment of a fee to be determined annually by the commissioner of administration under the provision of section 3B of chapter 7, be licensed as a dental therapist and be given a certificate to practice in this capacity. A licensed dental therapist shall have practiced under the direct supervision of a supervising dentist for a minimum of 2 years or 2,500 hours, whichever is longer, before practicing under general supervision pursuant to a collaborative management agreement.

For the purposes of this section, "general supervision" shall mean supervision of procedures and services based on a written collaborative management agreement between a licensed dentist and a licensed dental therapist but not requiring a prior exam or diagnosis by a supervising dentist or the physical presence of a supervising dentist during the performance of those procedures and services unless required by the supervising dentist in the collaborative management agreement.

(b) Any person licensed as a dental therapist under this section may also be registered as a dental hygienist and be given a certificate to practice in this capacity.

(c) An applicant for licensure as a dental therapist educated in the commonwealth must graduate from a master's level dental therapy education program that is accredited by the Commission on Dental Accreditation provided by a post–secondary institution accredited by the New England Association of Schools and Colleges, Inc. All dental therapy educational programs in the commonwealth must include at least one licensed dentist as an instructor. The board shall provide guidance for any educational entity or institution that may operate all or some portion of a master's level program, or may collaborate with other educational entities, including but not limited to universities, colleges, community colleges, and technical colleges, to operate all or some portion of a master's level program. The board may also provide guidance to develop mechanisms to award advanced standing to students who have completed coursework at other educational programs accredited by the Commission on Dental Accreditation. All education programs must prepare students to perform all procedures and services within the dental therapy scope of practice as set forth in this section.

The educational curriculum for a dental therapist educated in the commonwealth shall include training on serving patients with special needs including, but not limited to, people with developmental disabilities including autism spectrum disorders, mental illness, cognitive impairment,

complex medical problems, significant physical limitations and the vulnerable elderly.

Not later than January 1, 2020, the board shall approve a comprehensive, competency- based clinical dental therapy examination that includes assessment of technical competency in performing the procedures and services within the scope of practice as set forth in this section, to be administered by a recognized national or regional dental testing service that administers testing for dentists and other dental professionals. The examination shall be comparable to the examination given to applicants for a dental license but only for the limited scope of dental services in the dental therapy scope of practice as set forth in this section.

(d) The board shall grant a dental therapy license by examination to an applicant, upon payment of a fee as determined annually by the secretary of administration and finance under section 3B of chapter 7, provided the applicant is of good moral character and has: (i) met the eligibility requirements as defined by the board; (ii) submitted documentation to the board of a passing score on a comprehensive, competency-based clinical examination, or combination of examinations, that includes both dental therapy and dental hygiene components and is approved by the board and administered by a recognized national or regional dental testing service that administers testing for dentists and other dental professionals; and (iii) submitted to the board documentation of a passing score on the Massachusetts Dental Ethics and Jurisprudence Examination or any other successor examination. An applicant failing to pass the examination shall be entitled to re-examination pursuant to the rules and guidelines established by the Commission on Dental Competency Assessments, for which the applicant shall pay a fee as determined annually by the secretary of administration and finance under section 3B of chapter 7.

The board shall require as a condition of granting or renewing a license under this section, that the dental therapist apply to participate in the medical assistance program administered by the secretary of health and human services in accordance with chapter 118E and Title XIX of the Social Security Act and any federal demonstration or waiver relating to such medical assistance program for the limited purposes of ordering and referring services covered under such program, provided that regulations governing such limited participation are promulgated under said chapter 118E. A dental therapist practicing in a dental therapist role who chooses to participate in such medical assistance program as a provider of services shall be deemed to have fulfilled this requirement.

The board shall grant a license by credentials, without further professional examination, to a dental therapist licensed in another jurisdiction, upon payment of a fee as determined annually by the secretary of administration and finance under section 3B of chapter 7, provided the applicant is of good moral character and has: (i) met the eligibility requirements as defined by the board; (ii) furnished the board with satisfactory proof of graduation from an education program, or combination of education programs, providing both dental therapy and dental hygiene education that meets the standards of the Commission on Dental Accreditation, provided, however, that an applicant who graduated from a dental therapy education program established before the Commission on Dental Accreditation established a dental therapy accreditation program is eligible notwithstanding the lack of accreditation of the program at the time the education was received; (iii) submitted documentation of a passing score on a dental therapy examination administered by another state or testing agency that is substantially equivalent to the board-approved dental therapy examination for dental therapists as defined in this section; (iv) submitted documentation of a passing score on the Massachusetts Dental Ethics and Jurisprudence Examination or any other successor examination; and (v) submitted documentation of completion of 2 years or 2,500 hours, whichever is longer, of practice. If such practice requirement is not met, a dental therapist shall be required to complete the remaining hours or years, whichever is longer, under direct supervision in the Commonwealth prior to practicing under general supervision.

(e) Pursuant to a collaborative management agreement, a dental therapist licensed by the board may

perform: (i) all acts of a public health dental hygienist as set forth in regulations of the board and (ii) all acts in the Commission on Dental Accreditation's dental therapy standards. Dental therapists shall have the authority to perform an oral evaluation and assessment of dental disease and formulate an individualized treatment plan as authorized by the supervising dentist in the collaborative management agreement. A dental therapist may dispense and administer the following medications within the parameters of the collaborative management agreement and with the authorization of the supervising dentist: non-narcotic analgesics, anti-inflammatory and antibiotics. The authority to dispense and administer shall extend only to the categories of drugs identified in this paragraph and may be further limited by the collaborative management agreement. A dental therapist is prohibited from dispensing or administering narcotic analgesics. A dental therapist may oversee not more than 2 dental hygienists and 2 dental assistants, but shall not oversee public health dental hygienists.

After entering into a collaborative management agreement with a supervising dentist, dental therapists shall practice under direct supervision for not less than 2,500 clinical hours or two years, whichever is longer. After completing 2,500 clinical hours or two years, whichever is longer, of practice under direct supervision, dental therapists are authorized to perform all procedures and services listed in the Commission on Dental Accreditation's dental therapy standards and all procedures and services within the scope of a public health dental hygienist, as set forth in regulations by the board, under general supervision if authorized by a supervising dentist pursuant to a written collaborative agreement. In addition, the following procedures, referred to in this section as advanced procedures, may be performed under direct supervision: (i) preparation and placement of direct restoration in primary and permanent teeth; (ii) fabrication and placement of single-tooth temporary crowns; (iii) preparation and placement of preformed crowns on primary teeth; (iv) indirect and direct pulp capping on permanent teeth; (v) indirect pulp capping on primary teeth; and (vi) simple extractions of erupted primary teeth, provided however that the advanced procedures may be performed under general supervision if authorized by the board pursuant to subsection (f) of this section.

Pursuant to a collaborative management agreement, a dental therapist may provide procedures and services permitted under general supervision when the supervising dentist is not on-site and has not previously examined or diagnosed the patient provided the supervising dentist is available for consultation and supervision if needed through telemedicine or by other means of communication. If the supervising dentist will not be available, arrangements shall be made for another licensed dentist to be available to provide timely consultation and supervision.

A dental therapist may not operate independently of, and may not practice or treat any patients without, a supervising dentist. A dental therapist is prohibited from practicing without entering into a collaborative management agreement with a supervising dentist.

(f) By January 1, 2020, the department of public health, in consultation with the board and any other entity they deem appropriate, shall begin an evaluation assessing the impact of dental therapists practicing under general supervision in Massachusetts and the rest of the United States, specifically on: (i) dental therapists' progress in expanding access to safe and effective dental services for vulnerable populations including, at a minimum, Medicaid beneficiaries and individuals who are underserved as defined in this section; (ii) an appropriate geographic distance limitation between the dental therapist and supervising dentist that permits the dental therapist to expand access to vulnerable populations including, at a minimum, Medicaid beneficiaries and individuals who are underserved as defined in this section; and (iii) the number of dental hygienists and dental assistants a dental therapist may oversee.

Not before January 1, 2021 and no later than December 1, 2022, the department of public health, in consultation with the board and any other entity they deem appropriate, shall make a

recommendation, based on its assessment of whether dental therapists should be authorized to perform one or more of the advanced procedures, as defined in subsection (e) under general supervision pursuant to a collaborative management agreement. The department shall also make a recommendation on an appropriate geographic distance limitation between the dental therapist and supervising dentist that permits the dental therapist to expand access to vulnerable populations including, at a minimum, individuals receiving benefits through the division of medical assistance and individuals who are underserved as defined in this section. After the department completes its assessment and submits its recommendations to the board, the board shall make a determination, with consideration to how authorizing general supervision will expand access to safe and effective dental services for vulnerable populations including, at a minimum, individuals receiving benefits through the division of medical assistance and individuals who are underserved as defined in this section, whether to authorize performance of one or more of the procedures as identified in subsection (e), under general supervision pursuant to a collaborative management agreement.

Should the board, in consultation with the department and any other appropriate entity, determine that dental therapists shall have the authority to perform one or more of the procedures and services as identified in subsection (e) in their scope of practice under general supervision, then the board shall establish regulations no later than six months following the recommendation, authorizing dental therapists to perform one or more procedures as identified in subsection (e) under general supervision pursuant to a collaborative management agreement after receiving advanced practice certification.

The board shall grant advanced practice certification for a dental therapist licensed by the board to perform all services under general supervision pursuant to a collaborative management agreement if the dental therapist provides documentation of completion of at least two years or 2,500 hours, whichever is longer, of direct supervision pursuant to subsection (a) of this section, and satisfying any other criteria established by regulation adopted by the board as authorized in this section.

Should the board determine that dental therapists shall continue to perform one or more of the advanced procedures under direct supervision, the department, in consultation with the board, shall re-evaluate annually the impact of dental therapists practicing under general supervision in Massachusetts and the rest of the United States, and the board shall annually reassess whether to authorize general supervision for the advanced procedures in order to improve dental therapists' progress in expanding access to safe and effective dental services for vulnerable populations including, at a minimum, individuals receiving benefits through the division of medical assistance and individuals who are underserved as defined in this section.

(g) The board shall establish appropriate guidelines for a written collaborative management agreement. A collaborative management agreement shall be signed and maintained by the supervising dentist and the dental therapist and shall be submitted annually to the board.

The agreement may be updated as necessary. The agreement shall serve as standing orders from the supervising dentist and shall address: (i) practice settings; (ii) any limitation on services established by the supervising dentist; (iii) the level of supervision required for various services or treatment settings; (iv) patient populations that may be served; (v) practice protocols; (vi) record keeping; (vii) managing medical emergencies; (viii) quality assurance; (ix) administering and dispensing medications; (x) geographic distance limitations; (xi) oversight of dental hygienists and dental assistants; and (xii) referrals for services outside of the dental therapy scope of practice. The collaborative management agreement shall include specific protocols to govern situations in which the dental therapist encounters a patient who requires treatment that exceeds the authorized scope of practice of the dental therapist. The supervising dentist is responsible for directly providing, or arranging for another dentist or specialist within an accessible geographic distance to provide, any necessary additional services outside of the dental therapy scope of practice needed by the patient.

A supervising dentist may have a collaborative management agreement with not more than 3 dental therapists at the same time. Not more than 2 of the dental therapists may practice under general supervision with certification to perform one or more of the advanced procedures. A practice or organization with more than one practice location listed under the same business name may not employ more than six dental therapists, provided, however, that this requirement shall not apply if such an organization or practice is a federally qualified health center or look-alike, a community health center, a non-profit practice or organization, public health setting as defined by 234 CMR 2.02, or as otherwise permitted by the board.

(h) No medical malpractice insurer shall refuse primary medical malpractice insurance coverage to a licensed dentist on the basis of whether they entered into a collaborative management agreement with a dental therapist or public health dental hygienist. A dental therapist may not bill separately for services rendered; the services of the dental therapist are the services of the supervising dentist and shall be billed as such.

(i) Not less than 50% of the patient panel of a dental therapist, as determined in each calendar year, shall consist of patients who receive coverage through the division of medical assistance or are considered underserved provided, however, that this requirement shall not apply if the dental therapist is operating in a federally qualified health center or look-alike, community-health center, non-profit practice or organization, or other public health setting as defined by 234 CMR 2.02, or as otherwise permitted by the board. As used in this section, "underserved" means individuals who: (i) receive, or are eligible to receive, benefits through the division of medical assistance; (ii) receive, or are eligible to receive, social security disability benefits, supplemental security income, and/or Massachusetts state supplement program; (iii) live in a dental health professional shortage area as designated by the federal department of health and human services; (iv) reside in a long-term care facility licensed under section 71 of chapter 111; (v) receive dental services at a public health setting as defined by 234 CMR 2.02; (vi) receive benefits, or are eligible to receive subsidized insurance through the commonwealth health insurance connector authority; (vii) receive benefits, or are eligible to receive benefits, through the Indian Health Service, tribal or urban Indian organizations, or through the contract health service program; (ix) receive benefits, or are eligible to receive benefits, through the federal department of veterans affairs or other organization serving veterans; (x) are elderly and have trouble accessing dental care due to mobility or transportation challenges; (xi) meet the Commission on Dental Accreditation's definition of people with special needs; (xii) are uninsured have an annual income at or below 305% of the federal poverty level; or (xiii) as otherwise permitted by the board.

An employer of a dental therapist shall submit quarterly reports to the board that provide information concerning the makeup of the dental therapist's patient panel, including the percentage of underserved in the patient panel. No later than January 1, 2020, the secretary of health and human services may establish by regulation penalties for employers who fail to meet the requirements pertaining to the percentage of underserved in the dental therapist's patient panel.

(j) Not later than January 1, 2020, the board, in consultation with the department shall establish regulations to implement the provisions of this section for the practice of dental therapy to protect the public health, safety and welfare, including, but not limited to: requirements for approval of educational programs; guidelines for collaborative management agreements, continuing education requirements, license renewal, standards of conduct, and the investigation of complaints, conduct of disciplinary proceedings and grounds for discipline.

SECTION 11. Section 259 of chapter 112 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "skills", in line 51, the following:

(j) Oral health education;

SECTION 12. Section 260 of chapter 112 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the number 7, in line 21, the following:– As a condition for licensure or renewal of licensure, the board shall require community health workers to receive education or training in oral health.

SECTION 13. Section 79L of chapter 233, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "dentist," the following words:– dental therapist.

SECTION 14. The department of public health, in consultation with the executive office of health and human services, shall perform a 5–year evaluation of the impact of dental therapists, as established under section 51B of chapter 112 of the General Laws, on patient safety, cost–effectiveness and access to dental services. The department may enter into an inter– agency agreement with the health policy commission, established under chapter 6D of the General Laws, to provide assistance to the department in conducting such evaluation, as it deems necessary. The department shall ensure effective measurements of the following outcomes and file a report of its findings, which shall include the:

- (i) Number of dental therapists in the commonwealth each year;
- (ii) Number of licensed dental therapists in the commonwealth each year;
- (iii) Number of new and total patients served each year;
- (iv) Impact on wait times for needed services;
- (v) Impact on travel time for patients;
- (vi) Impact on emergency room usage for dental care; and
- (vii) Costs to the public health care system.

The report shall be submitted not later than five years after the date of graduation of the first graduating class of dental therapists educated in the commonwealth to the joint committee on public health, the joint committee on health care financing and the senate and house committees on ways and means.

The center for health information and analysis shall, by the first day of January of each year, submit a report including information on:

- (i) Number of dental therapists in the commonwealth;
- (ii) Number of licensed dental therapists practicing in the commonwealth;
- (iii) Number of new and total patients served;
- (iv) Number of new and total pediatric patients served, including geographic location and insurance type;
- (v) Practice settings; and
- (vi) Commonly performed procedures and services

The first annual report shall be submitted not later than three years after the date of graduation of the first graduating class of dental therapists educated in the commonwealth to the joint committee

on public health, the joint committee on health care financing and the senate and house committees on ways and means.

An Act to protect medically fragile kids

H.1896, S.686—An Act Relative to Critical Data Collection on the Medically Fragile Population

Representatives Denise C. Garlick (617-722-2380) and Louis L. Kafka (617-722-2960) and Senator Cindy F. Friedman (617-722-1432)

Overview: This bill allows for a meaningful review of nursing hours, rates, utilization, and nurses registered with Masshealth/Medicaid every two years to increase access to home care nurses and maintain an adequate workforce to care for medically fragile children in their family home.

Bill Language:

SECTION 1. Chapter 12C of the General Laws is hereby amended by adding the following section:—
Section 24. The center, in conjunction with MassHealth, shall prepare an annual report related to patients requiring continuous skilled nursing care, as defined in 101 CMR 350.02 and 130 CMR 403.402. The report shall include, but not be limited to: (i) the number of pediatric patients and the number of adult patients requiring continuous skilled nursing care; (ii) the average, median and total number of continuous skilled nursing hours authorized by MassHealth per day, week, month and year for pediatric patients and for adult patients; (iii) the average, median and total number of authorized continuous skilled nursing hours actually delivered per day, week, month and year for pediatric patients and for adult patients; (iv) the proportion of utilization to authorization of service hours in comparison to patient acuity for pediatric patients and for adult patients; (v) the number of nurses providing continuous skilled nursing care to more than 1 patient at a time and the proportion of utilization to authorization of said patients; (vi) the number of nurses who contract with MassHealth to provide continuous skilled nursing care and the number of nurses who provide continuous skilled nursing care through a home health agency that contracts with MassHealth and whether the total number of nurses providing such care is sufficient to fill all authorized continuous skilled nursing hours; (vii) the training, experience and education level of the nurses who contract with MassHealth to provide continuous skilled nursing care; and (viii) an evaluation of the adequacy of the reimbursement rates for continuous skilled nursing, as defined in 101 CMR 350.04(2), and a comparison of those rates between the rate paid to nurses who contract directly with MassHealth to provide continuous skilled nursing care, the portion of the reimbursement rate paid directly as wages to nurses providing continuous skilled nursing care through a home health agency that contracts with MassHealth, and the median wage rate paid to all nurses in the commonwealth. Not later than January 1 of each year, the report shall be filed with the secretary of health and human services, the clerks of the senate and the house of representatives, the joint committee on health care financing, the joint committee on public health and the senate and house committees on ways and means. The center shall make the report publicly available on its website.

SECTION 2. Chapter 118E of the General Laws is hereby amended by adding the following sections:—
Section 78. The office of Medicaid shall prepare an annual report that includes the following information about continuous skilled nursing care, as defined in 101 CMR 350.02 and 130 CMR 403.402, from the immediately preceding calendar year: (i) the number of filled and unfilled continuous skilled nursing hours authorized by MassHealth; (ii) the number of appeals received by MassHealth for the denial or modification of continuous skilled nursing hours and the number of patients that filed an appeal; (iii) the number of patients that received a reduction in the amount of authorized continuous skilled nursing hours; and (iv) the number of authorized continuous skilled nursing hours reduced from the immediately preceding calendar year, if any.

Not later than January 1 of each year, the report shall be filed with the secretary of health and human services, the clerks of the senate and the house of representatives, the joint committee on health care financing, the joint committee on public health and the senate and house committees on ways and means.

Section 79. Notwithstanding any general or special law to the contrary, the office of Medicaid shall review the wage payment rates established by home health agencies that provide continuous skilled nursing care, as defined in 101 CMR 350.02 and 130 CMR 403.402, for the providers of those services. The office shall provide: (i) an aggregated overview of the wage payment rates paid by home health agencies to staff or contracted nurses providing continuous skilled nursing care, including any increases in said wage rates resulting from increases in Medicaid rates paid to home health agencies for continuous skilled nursing care in state fiscal years 2017 and 2018; (ii) an aggregated breakdown of said wage rates as applied to the acuity level of patients receiving continuous skilled nursing care; (iii) an aggregated breakdown of said wage rates as applied to the licensure level of the providers of continuous skilled nursing care; (iv) recommendations on criteria to be included in any future reporting by home health agencies receiving an increase of continuous skilled nursing care rates provided by the office.

Not later than January 1 of each year, the report shall be filed with the clerks of the senate and the house of representatives, the joint committee on health care financing, and the senate and house committees on ways and means. Home health agencies providing continuous skilled nursing care shall provide all information and documentation requested by the office of Medicaid to compile the required report under this section.

SECTION 4. The first report required pursuant to section 24 of chapter 12C of the General Laws shall be filed on January 1, 2020.

SECTION 4. The first report required pursuant to section 78 of chapter 118E of the General Laws shall be filed on January 1, 2020.

SECTION 4. The first report required pursuant to section 79 of chapter 118E of the General Laws shall be filed on January 1, 2020.

Hospital Training

H.1889, S.1287 — An Act creating autism teams in hospitals

Representative Sean Garballey (617-722-2090) and Senator Jason Lewis (617-722-1206)

Overview: This bill will expand current hospital based medical providers' knowledge about autism and I/DD, in order to improve the treatment individuals receive in medical settings.

Bill Language:

Notwithstanding any general or special law to the contrary, within one year of the date of enactment, the executive office of health and human services shall create and maintain an integrated state plan to develop training and education as well as standards of care by appropriate healthcare providers related to the diagnosis, treatment, and care of patients with intellectual and developmental disabilities, including autism spectrum disorders. The plan should include implementation steps and recommendations from the advisory committee on intellectual and developmental disabilities that includes, but is not limited to: (1) continuing education requirements for applicable healthcare providers related to diagnosis, treatment, and care of patients with intellectual and developmental disabilities, including autism spectrum disorders; (2) implementation of a strategy for the adoption of standards for improving assessment and diagnosis of intellectual and developmental disabilities, including autism spectrum disorders, for patients during routine outpatient primary care examinations; and (3) coordination with applicable state licensure boards, as recommended by the

advisory committee on intellectual and developmental disabilities, the adoption of appropriate continuing education requirements related to intellectual and developmental disabilities, including autism spectrum disorders, as part of licensure renewals.

Within six months of the date of enactment, there is hereby established an advisory committee on intellectual and developmental disabilities, including autism spectrum disorders. Said advisory committee shall be comprised of the following experts: (i) a designee of the secretary of health and human services; (ii) a designee of the commissioner of public health; (iii) two health care providers with expertise in the diagnosis, treatment, and care of patients with intellectual and developmental disabilities, including autism spectrum disorders; (iv) two patient advocates or family members of those with intellectual and developmental disabilities, including autism spectrum disorders; and (v) five statewide trade organizations that include the Arc of Massachusetts, the Massachusetts Health and Hospital Association, the Massachusetts Medical Society, and Massachusetts Psychiatric Society, and the Massachusetts Psychological Association. The advisory council shall develop recommendations for statewide standards for healthcare professionals regarding diagnosis, treatment, and care for patients with intellectual and developmental disabilities, including but not limited to, autism spectrum disorders. Said standards shall include recommendations for training of healthcare providers, including but not limited to, physicians, psychologists, psychiatrists, physician assistants, registered nurses, and advanced practice registered nurses.

Transition

Cueing and Supervision

H.154, S.60 — An Act relative to cueing and supervision in the Personal Care Attendant (PCA) Program

Representative James O'Day (617-722-2090) and Senator Joan Lovely (617-722-1410)

Overview: This bill amends Ch. 7 of the general law to allow the PCA program to include cueing and prompting as a covered service for those eligible members who need it. Notwithstanding the provisions of any general or special law to the contrary, the division shall develop or amend any standards and regulations applicable to the personal care attendant program to include as eligible members those individuals who are otherwise eligible for said program, but who require supervision and cueing in order to perform two or more activities of daily living.

Bill Language:

SECTION 1. Section 12 of chapter 118E of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

Notwithstanding the provisions of any general or special law to the contrary, the division shall develop or amend any standards and regulations applicable to the personal care attendant program to include as eligible members those individuals who are otherwise eligible for said program, but who require supervision and cueing in order to perform two or more activities of daily living.

Accessory Housing

H.1250, S.820 — An Act relative to accessory dwelling units

Representative Christine Barber (617-722-2220) and Senator Bruce Tarr (617-722-1600)

Overview: This bill would allow the development and preservation of affordable housing for persons with disabilities and the elderly. It is designed to encourage creation accessory dwelling units in the form of 2 bedroom accessory apartments for people with disabilities and the elderly. the bill would make creating an accessory apartment (an in-law apartment, for example) added to a single family home for the benefit of a person with a disability, or an elderly person, a right.

Bill Language:

SECTION 1. Section 3 of chapter 40A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the last paragraph the following 3 paragraphs:-

No zoning ordinance or by-law shall prohibit or require a special permit for the use of land or structures for an accessory dwelling unit, or the rental thereof, in a single-family residential zoning district on a lot with 5,000 square feet or more or on a lot of sufficient area to meet the requirements of title 5 of the state environmental code established by section 13 of chapter 21A, if applicable; provided, however, that the single-family dwelling or the accessory dwelling unit is occupied by at least 1 person with disabilities or 1 person who is elderly.

As used in this section, “accessory dwelling unit” shall mean a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities, incorporated within the same structure as a single-family dwelling or in a detached accessory structure and that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the single dwelling; (ii) shall not be sold separately from the single family dwelling; (iii) is not smaller in floor area than 450 square feet; (iv) may include up to two bedrooms; and (v) is not larger in floor area than ½ the floor area of the single family dwelling or 900 square feet, whichever is smaller; “person with disabilities” shall mean a person who has been determined to be disabled (i) in accordance with criteria established by local by-law or ordinance, if any, or (ii) by the Social Security Administration or MassHealth, notwithstanding any local by-law or ordinance; and “elderly” shall mean a person sixty-five years of age or older.

The zoning ordinance or by-law may require that the single-family dwelling or the accessory dwelling unit be owner-occupied and may limit the total number of accessory dwelling units in the municipality to a percentage not lower than 5 percent of the total non-seasonal housing units in the municipality. The use of land or structures for an accessory dwelling unit may be subject to reasonable regulations concerning dimensional setbacks and the bulk and height of structures. Not more than 1 additional parking space shall be required for an accessory dwelling unit but, if parking is required for the single family dwelling, that parking shall either be retained or replaced. An accessory dwelling unit allowed under this section is considered owner-occupied upon transfer of title of the single-family dwelling in whole or in part to a trust in which at least 1 beneficiary is a person with disabilities or a person who is elderly; provided, however, that either the single-family dwelling or the accessory dwelling unit remains occupied by that beneficiary. Nothing in this paragraph shall authorize an accessory dwelling unit to violate the building, fire, health or sanitary codes, historic or wetlands laws, or ordinances or by-laws.

Supported Decision Making

H.172, S.64 — An Act relative to supported decision-making agreements for certain adults with disabilities

Representatives Aaron Vega (617-722-2011), Paul Tucker (617-722-2070) and Senator Joan Lovely (617-722-1410)

Overview: This bill, allows certain adults, including those with disabilities and elders, to maintain their rights, dignity, and independence by choosing one or more trusted supporters to provide assistance making decisions about their lives.

Bill Language:

SECTION 1. General Laws. chapter 190B is amended by adding Section 5-508 to read as follows:

SUPPORTED DECISION-MAKING AGREEMENT ACT GENERAL PROVISIONS

(1) DEFINITIONS. In this section:

(a) "Adult" means an individual 18 years of age or older.

(b) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities.

(c) "Decision maker" means the person making the decision, that is, the principal.

(d) "Principal" is an adult with a disability who has executed a supported decision-making agreement, that is, the decision maker.

(e) "Supported decision-making" means a process of supporting and accommodating a principal to assist the principal to make life decisions, including decisions related to where the principal wants to live, the services, supports, financial decisions, and medical care the principal wants to receive, whom the principal wants to live with, and where the principal wants to work, without impeding the self-determination of the principal.

(f) "Supported decision-making agreement" is an agreement a principal enters into with one or more supporters under this chapter to use supported decision-making.

(g) "Supporter" means an adult who has entered into a supported decision-making agreement with a principal.

(2) PURPOSE. The purposes of this section is to recognize that with support many people with disabilities can make their own decisions, to help such persons to exercise their human rights to make decisions, and to create a process which adults with disabilities who need assistance with decisions may choose to use to make and communicate decisions.

(3) SUPPORTED DECISION-MAKING AGREEMENT. A principal may voluntarily, without undue influence or coercion, enter into a supported decision-making agreement with a supporter or supporters. The principal may amend or terminate a supported decision-making agreement at any time.

(4) DECISION-MAKING ASSISTANCE OF SUPPORTER. Except as limited by a supported decision-making agreement, a supporter may provide to the principal the following decision-making

assistance about the principal's affairs with the consent of the individual with the disability:

(a) assisting with making decisions, communicating decisions, and understanding information about, options for, the responsibilities of, and the consequences of decisions;

(b) accessing, obtaining, and understanding information that is relevant to decisions necessary for the principal to manage his or her affairs, including medical, psychological, financial, and educational information, medical treatment records, and other records;

(c) ascertaining the wishes and decisions of the principal, assisting in communicating those wishes and decisions to other persons, and advocating to ensure their implementation; and

(d) accompanying the principal and participating in discussions with other persons when the principal is making decisions or attempting to obtain information for decisions.

(5) **AUTHORITY OF A SUPPORTER.** A supporter may

exercise only the authority granted to the supporter in the supported decision-making agreement.

(6) **TERM OF AGREEMENT.**

(a) Except as provided by Subsection (b), the supported decision-making agreement extends until terminated by the principal, by all of the supporters, by the terms of the agreement, or by court order, following notice and an opportunity to be heard, and if the principal is indigent and does not have counsel, appointment of counsel.

If the supported decision-making agreement includes more than one supporter, the agreement shall survive as to supporters who have not terminated unless it is terminated by the principal or by all of the supporters.

(b) The supported decision-making agreement is suspended when the Disabled Persons Protection Commission, an Elder Protective Services Agency or a court of competent jurisdiction finds that the adult with a disability has been abused, neglected, or exploited by a supporter or supporters. The agreement may survive if one or more supporters who were not found to have abused, neglected, or exploited the adult with a disability continue to be willing to serve as a supporter and the principal agrees.

(7) **ACCESS TO PERSONAL INFORMATION.**

(a) A supporter is only authorized to assist the principal in accessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement and to which the principal agrees that the supporter should have access.

(b) If a supporter assists the principal in accessing, collecting, or obtaining personal information, including protected health information under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) or educational records under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), the supporter shall ensure the information is kept privileged and confidential, as applicable, and is not subject to unauthorized access, use, or disclosure.

(c) The existence of a supported decision-making agreement does not preclude a principal from seeking personal information without the assistance of a supporter.

(8) **AUTHORIZING AND WITNESSING OF SUPPORTED DECISION-MAKING AGREEMENT.** A supported

decision-making agreement must be signed voluntarily, without coercion or undue influence, by the principal and the supporter or supporters in the presence of two or more subscribing witnesses who are at least 18 years of age and are not related to the person with the disability or a notary public.

(9) FORM OF SUPPORTED DECISION-MAKING AGREEMENT.

(a) Subject to Subsection (c), a supported decision-making agreement is valid only if it is in substantially the form of the agreement in subsection (b). The agreement is intended to be personalized by the principal to reflect his or her personal circumstances. The principal should describe in the agreement the type of decision making assistance he or she would like from his or her supporters.

(b) Agreement:

SUPPORTED DECISION-MAKING AGREEMENT

Appointment of Supporter

(1) I, (insert your name)(address)(date of birth), make this agreement of my own free will. It is my intention that I be the decision maker.

(2) [If there is more than one supporter, provide the following for each supporter]

As the decision maker, I choose as my supporter(s) the following person(people):

Full Name:

Address:

Phone Number:

E-mail Address:

My supporter, [name of supporter], may help me with making everyday life decisions relating to the following areas of my life: [describe here]

[Optional section:]

As the decision maker I would like assistance from, (name of supporter) with making decisions about:

Y/N obtaining food, clothing, and shelter

Y/N taking care of my health, including helping me make large and small health care decisions.

Y/N managing my financial affairs.

Y/N accessing and using public supports and services.

Y/N taking care of myself, including managing the people who work with me, making decisions about my diet, safety and other day to day activities.

Y/N making legal decisions, including retaining a lawyer if I need one and working with the lawyer.

I do not want assistance from my supporter, (name of supporter), with decision making about the following areas of my life: [describe here]

[Repeat section (2) for each additional supporter if there are any]

(3) My supporter(s) is(are) NOT allowed to make decisions for me. I am the decision maker.

(4) To help me with my decisions, my supporter(s) may:

1. Request information or records that are relevant to a decision, including medical, psychological, financial, educational, or treatment records;

2. Help me understand my options so I can make an informed decision by discussing with me the good things and bad things (pros and cons) of a decision

3. Give me information in a way that I can understand;

or

4. Help me communicate my decision to appropriate persons.

Y/N A release allowing my supporter to see protected health information under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) is attached.

Y/N A release allowing my supporter to see educational records under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) is attached.

Effective Date of Supported Decision-Making Agreement

This supported decision-making agreement is effective immediately and will continue until (insert date) or until the agreement is terminated by my supporter or me or by operation of law.

Signed this day of , 20__

Consent of Supporter

I, (name of supporter), consent to act as a supporter under this agreement. I understand that as _____'s supporter my job is to honor and present his/her wishes and in the event I cannot perform my duties I will withdraw from this agreement.

(signature of supporter) (printed name of supporter)

Signature

(my signature) _____(my printed name)

(witness 1 signature) (printed name of witness 1)

(witness 2 signature) (printed name of witness 2)

Commonwealth of Massachusetts

County of

This document was acknowledged before me

on (date)

by and

(name of adult with a disability) (name of supporter)

(signature of notarial officer)

(Seal, if any, of notary)

(printed name)

My commission expires: _____

WARNING:

IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE

OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT THE DECISION MAKER, THAT IS THE ADULT WITH A DISABILITY, IS BEING ABUSED, NEGLECTED, OR EXPLOITED BY A SUPPORTER OR SUPPORTERS, THE PERSON SHALL REPORT THE ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE DISABLED PERSONS PROTECTION COMMISSION BY CALLING THE ABUSE HOTLINE AT 1-800-426-9009 OR 1-888-822-0350 (TTY) OR, IF THE DECISION MAKER, THAT IS THE PERSON WITH A DISABILITY, IS AGE 60 OR OLDER TO THE ELDER ABUSE PREVENTION HOTLINE AT 1-800-922-2275.

(c) A supported decision-making agreement may be in any form

not inconsistent with Subsection (a) and the other requirements of this chapter.

(10) RELIANCE ON AGREEMENT; LIMITATION OF LIABILITY.

(a) A person who receives the original or a copy of a supported decision-making agreement shall rely on the agreement and recognize a decision or request made or communicated with the decision-making assistance of a supporter under this chapter as the decision or request of the principal.

(b) A person who, in good faith, acts in reliance on an authorization in a supported decision-making

agreement is not subject to civil or criminal liability or to discipline for unprofessional conduct for relying on a decision made in accordance with a supported decision-making agreement.

(11) AGREEMENT MAY NOT BE A CONDITION OF PARTICIPATION. Execution of a supported decision-making agreement may not be a condition of participation in any activity, service, or program.

(12). REPORTING OF SUSPECTED ABUSE, NEGLECT, OR EXPLOITATION. If a person who receives a copy of a supported decision-making agreement or is aware of the existence of a supported decision-making agreement has cause to believe that the principal is being abused, neglected, or exploited by the supporter, the person shall report the alleged abuse, neglect, or exploitation to the Disabled Persons Protection Commission in accordance with G.L. c. 19D, or the Elder Abuse Prevention Hotline in accordance with G.L. c. 19C.

(13) HEALTH CARE PROXY AND DURABLE POWER OF ATTORNEY. Nothing in this chapter shall be interpreted to limit or restrict any individual's right to execute a health care proxy pursuant to the terms of G.L. c. 201D or a power of attorney pursuant to the terms of G.L. c. 190B secs. 5-501 through 5-507.

SECTION 2. General Laws Chapter 190B Section 5-303(b)(10) is repealed and the following is added:

Section 5-303(b)(10): The petition for guardianship must state:

- (1) Whether alternatives to guardianship and available supports and services to avoid guardianship, including a supported decision-making agreement, were considered; and,
- (2) Whether any alternatives to guardianship and supports and services are feasible and would avoid need for guardianship.

SECTION 3. TRAINING ON SUPPORTED DECISION-MAKING

General Laws Chapter 6A, Section 16 is amended to add the following after the last paragraph of Section 16:

The executive office of health and human services shall establish a training program on supported decision-making. The training program shall include instruction by state agencies including the department of developmental services, the department of mental health, the executive office of elder affairs and/or a non-profit corporation or corporations.

The training program on supported decision-making shall be provided to a supporter or a principal receiving decision-making assistance, and shall include the rights and obligations contained in General Laws Chapter 190B Sec. 5-508. The training shall be in any format accessible to the individuals receiving such training. Such training shall at all stages include trainers with disabilities and adults who receive or might receive supported decision-making assistance.

SECTION 4. SUPPORTED DECISION-MAKING AND TRANSITIONAL PLANNING

(1) General Laws Chapter 71(b) Sec. 3 is amended to add the following after the last paragraph of Section 3:

For any student for whom adult guardianship is being considered at the Individual Educational Program (IEP) team meeting, the IEP team shall inform the student and family (or guardian if there is a guardian of the minor) at the earliest possible meeting of the availability of supported decision-making as an alternative to guardianship. Furthermore, the IEP team shall assist the child and his or her family or minor guardian in locating resources to assist in establishing a supported decision-

making plan if the child and family are interested in supported decision-making. Finally, if a supported decision-making agreement is executed, the IEP team shall abide by decisions made by the student pursuant to the supported decision-making agreement.

(2) General Laws Chapter 71(b) Sec. 2 is amended to add the following after the last paragraph of Section 2:

The department of elementary and secondary education shall promulgate a regulation that requires school districts and charter schools to be part of the transitional planning process to inform students and families of the availability of supported decision-making as an alternative to guardianship in such cases where adult guardianship is being contemplated.

SECTION 5. This Act shall be effective immediately.

Human Services Workforce

Loan Repayment for Human Service Workers

H.163, S.56 — An Act relative to a loan repayment program for human service workers

Representatives Jeff Roy (617-722-2030) and Smitty Pignatelli (617-722-2210) and Senator Eric Lesser (617-722-1291)

Overview: This bill would create an education loan repayment program for human service workers that work under state contracts to serve clients on behalf of the Commonwealth. To be eligible, workers must be working at least 35 hours per week, have an individual income of no more than \$50,000 per year and have maintained 12 consecutive months of employment in the sector. The program would allow workers to receive up to \$150/month for a period not to exceed 48 months to repay a qualified education loan that was used to attend an institution of higher learning

Bill Language:

Section 16 of Chapter 6A shall be amended by inserting the following new section, 16A.

There shall be a student loan repayment program for human service workers to encourage individuals to enter the field and maintain employment at human service programs. The Executive Office of Health and Human Services shall administer the program in accordance with guidelines promulgated by the Department of Education.

The term “qualified education loan” shall mean any indebtedness, including interest on such indebtedness, incurred to pay tuition or other direct expenses incurred in the connection with the pursuit of a certificate, undergraduate or graduate degree by an applicant. It shall not include loans made by any person related to the applicant.

The term “human service worker” shall mean an individual employed by a human service organization who provides services by supporting individuals’ and families’ efforts to function in daily living situations. Human service worker is a generic term for people who hold professional jobs in settings such as group homes; institutional or residential settings; correctional or community health centers; at family, child and youth service agencies; and at programs that help individuals affected by alcoholism, homelessness, drug abuse, family violence and/or aging.

To be eligible for this program, a participant must be working a minimum of 35 hours per week as a human service worker and have an individual income of no more than \$50,000 per year. Further, individuals must have maintained 12 consecutive months of employment at a minimum of 35 hours per week to be eligible for this program. This program will help defray costs from previously incurred student loans for graduates holding certificate, undergraduate or graduate degrees.

Eligible participants in this program can be reimbursed up to \$1,800 per year based on the amount of loan payments made by the participant. The Commonwealth shall repay the eligible participant's student loan at a rate not to exceed \$150 per month for a period not to exceed 48 months. Payments by the Commonwealth shall cover loan payments by the eligible participant only during the months in which the human service workers provides services in the Commonwealth, and the payments shall be made directly to the lender.

Fair Pay for Comparable Work

H.138 — An Act relative fair pay for comparable work

Representative Kay Khan (617-722-2011)

Overview: This bill seeks to have staff at private providers be paid the same as those in state-operated programs in the same fields. Providers would be given higher reimbursements to address the salary disparity while allowing the elderly and those individuals with disabilities, to maintain their rights, dignity, and independence by choosing their support staff.

Bill Language:

SECTION 1. Chapter 6A of the General Laws, as so appearing in the 2016 Official Edition, is hereby amended by adding the following section:—

Section 105. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“human service provider,” a community-based human services organization with a human services program funded by the executive office of health and human services, the executive office of elder affairs, the department of housing and community development or the department of early education and care.

“human services worker,” an employee of a human service provider who provides treatment, support, or services to clients or their families.

“disparity amount,” the monetary calculation of the average difference in salary between human service workers and direct support workers or other comparable employees employed by the commonwealth's state-operated programs for human services.

“rate,” the reimbursement rate paid by the executive office of health and human services, the executive office of elder affairs, the department of housing and community development or the department of early education and care to a human service provider to deliver services to clients on the commonwealth's behalf.

(b) Notwithstanding any general or special law to the contrary, the executive office of health and human services, the executive office of elder affairs, the department of housing and community

development or the department of early education and care shall increase the rate of reimbursement for human services providers by an amount that reduces the disparity amount, as defined by subsection (a), to:

- (1) 50 percent on or before July 1, 2021;
- (2) 35 percent on or before July 1, 2022;
- (3) 20 percent on or before July 1, 2023;
- (4) 5 percent on or before July 1, 2024; and
- (5) 0 percent on or before July 1, 2025, and shall remain at 0 percent thereafter.

(c) All increases in the rate of reimbursement provided for in this section shall be used to increase the compensation of human services workers.

(d) The executive office of health and human services, the executive office of administration and finance, the executive office of elder affairs, the department of housing and community development, and the department of early education and care shall adopt regulations to implement this section.

(e) Nothing in this section shall be construed to prohibit the elimination of the disparity amount prior to July 1, 2025.

SECTION 2. On or before January 1, 2020, the executive office of health and human services, the executive office of administration and finance, the executive office of elder affairs, the department of housing and community development, and the department of early education and care, in collaboration with the Massachusetts Council of Human Service Providers, Inc., shall provide a report to the senate and house committees on ways and means that includes recommendations to strengthen recruitment and retention of human services workers, as defined in subsection (a) of section 105 of chapter 6A of the General Laws, employed by human services providers, as defined in subsection (a) of section 105 of chapter 6A of the General Laws, that have contracts with the state.

SECTION 3. On or before July 1, 2020, the executive office of health and human services, the executive office of elder affairs, the department of housing and community development or the department of early education and care, in collaboration with the Massachusetts Council of Human Service Providers, Inc., shall provide a report to the senate and house committees on ways and means, the joint committee on children, families and persons with disabilities, the joint committee on elder affairs, the joint committee on health care financing, the joint committee on mental health, substance use, and recovery, the joint committee on public health, and the joint committee on state administration and regulatory oversight that includes the following information:

(1) the current disparity amount, as defined in subsection (a) of section 105 of chapter 6A of the General Laws, between the salaries of human services workers, as defined in subsection (a) of section 105 of chapter 6A of the General Laws, employed by human service providers, as defined in subsection (a) of section 105 of chapter 6A of the General Laws, and direct support workers or other comparable employees employed by the commonwealth's state-operated programs for human services; and

(2) the amount of annual increases in the rate of reimbursement, as defined in subsection (a) of section 105 of chapter 6A of the General Laws, to human service providers necessary to reduce and eliminate the disparity amount by July 1, 2025.

General

An Act Relative to Persons with Disabilities

H.155, S.61 — An Act relative to persons with developmental disabilities

Representative James O'Day (617-722-2090) and Senator Joan Lovely (617-722-1410)

Overview: This bill adopts the federal definition of developmental disability in place of the current state definition of developmental disability and will amend the definition to include all adult individuals with a developmental disability, e.g. cerebral palsy and fetal alcohol syndrome.

Bill Language:

SECTION 1: Section 1 of Chapter 123B of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking lines 18 through 37 and inserting in place thereof the following:-

“Person with a developmental disability,” (1) an individual 5 years of age or older with a severe, chronic disability that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial function limitations in 3 or more of the following areas of major life activity: (1) self-care; (2) receptive and expressive language; (3) learning; (4) mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-sufficiency; and (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary or generic services, individualized supports or other forms of assistance that are of a lifelong or extended duration and are individually planned and coordinated; or (2) an individual under the age of 5 who has a substantial developmental delay or specific congenital or acquired condition with a high probability that the condition will result in developmental disability if services are not provided. A person who has a developmental disability may be considered to be mentally ill; provided, however, that no person with a developmental disability shall be considered to be mentally ill solely by the reason of the person’s developmental disability.

SECTION 2: This act shall take effect on January 1, 2020.

Katie’s Law

H.141 — An Act relative to individuals with intellectual or developmental disabilities

Representative Kay Khan (617-722-2011)

Overview: This bill (Katie’s Law) would strike out certain phrases/words and outdated language (mentally retarded, handicap, etc.) in the General Laws and replacing them with more appropriated words as disability or intellectual or developmental disability.

Bill Language:

SECTION 1. This act may be referred to as Katie's Law.

SECTION 2. Section 172C of chapter 6 of the General Laws, as appearing in the 2016 Official Edition,

is hereby amended by striking out, in line 5, the words “is mentally retarded” and inserting in place thereof the following words:- has an intellectual or developmental disability.

SECTION 3. Section 178C of said chapter 6, as so appearing, is hereby amended by striking out, in line 60 and in lines 137 to 138, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual or developmental disability.

SECTION 4. Section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in line 235, the words “the mentally retarded” and inserting in place thereof the following words:- people with intellectual disabilities.

SECTION 5. Said section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in line 258, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 6. Section 22N of chapter 7 of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 to 14, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 7. Section 38 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “retarded children” and inserting in place thereof the following words:- children with an intellectual disability.

SECTION 8. Section 21 of chapter 19 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the words “mentally retarded individuals with common needs for care and treatment” in lines 16 to 17 and inserting in place thereof the following words:- “intellectually or developmentally disabled individuals with common needs for care and treatment,”

SECTION 9. Section 7 of chapter 19B of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation”.

SECTION 10. Section 8 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation”

SECTION 11. Said section 8 of said chapter 19B, as so appearing, is hereby further amended by striking out, in lines 6 to 7, the words “the mentally retarded” and inserting in place thereof the following words:- people with intellectual or developmental disabilities.

SECTION 12. Section 2 of chapter 21H of the General Laws, as so appearing, is hereby amended by striking out, in lines 73 to 74, the word “retarded” and inserting in place thereof the following words:- intellectually or developmentally disabled.

SECTION 13. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the word “handicap” and inserting in place thereof the following words:- disability, age.

SECTION 14. Section 47 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in lines 32 to 33, the words “such mentally retarded person” and inserting in place thereof the following words:- a person with an intellectual disability.

SECTION 15. Clause (e) of subsection 1 of Section 1 of chapter 31A of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the word “handicap” and inserting in place thereof the following word:- disability.

SECTION 16. Section 2 of said chapter 31A, as so appearing, is hereby amended by inserting after the definition for "Department" the following definition:-

"Disability", a physical or mental impairment that substantially limits one or more major life activities without regard to the ameliorative effects of mitigating measures which do not include ordinary eyeglasses or contact lenses.

SECTION 17. Said section 2 of said chapter 31A, as so appearing, is hereby further amended by inserting after the definition for "Local merit appeals board" the following definition:-

"Major life activities" shall include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. This term also includes the meaning of "major bodily functions," which include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

SECTION 18. Section 23 of chapter 32 of the General Laws, as amended by section 8 of chapter 86 of the acts of 2015, is hereby amended by striking out, in subsection (b) of paragraph (5), the words "physical handicap" and inserting in place thereof the following word:- disability.

SECTION 19. Section 3 of chapter 38 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 21, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 20. Section 3 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in lines 175 and 217, the words "mental retardation" and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 21. Section 4 of chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in line of 28, the words "physical handicap" and inserting in place thereof the following word:- disability.

SECTION 22. Subsection (a) of section 103 of chapter 93 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word "handicap" and inserting in place thereof the following word:- disability.

SECTION 23. Said section 103 of said chapter 93, as so appearing, is hereby amended by striking out, in line 3, the words "with reasonable accommodation" and inserting in place thereof the following words:- with or without reasonable accommodation.

SECTION 24. Section 40 of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 25. Section 24E of said chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the word "handicap" and inserting in place thereof the following word:- disability.

SECTION 26. Section 62J of said chapter 111, as so appearing, is hereby amended by striking out, in line 14, the words "mental retardation" and inserting in place thereof the following words:- intellectual or developmental disability.

SECTION 27. Section 67E of said chapter 111, as so appearing, is hereby amended by striking out, in

lines 40 to 41, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 28. Section 69E of said chapter 111, as so appearing, is hereby amended by striking out, in line 9, the words “mental retardation” and inserting in place thereof the following words:- intellectual or developmental disability.

SECTION 29. Section 71 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 10, 24 to 25, 80, 92, 137, 183, 186 and 226, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with intellectual disabilities.

SECTION 30. Said section 71 of said chapter 111, as so appearing, is hereby further amended by inserting after the word “mental”, in line 192, the word:- health.

SECTION 31. Section 72 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 3 to 4, the words “the mentally retarded” and inserting in place thereof the following words:- persons with intellectual disabilities.

SECTION 32. Said section 72 of said chapter 111, as so appearing, is hereby further amended by striking out, in line 17, the words “mentally retarded and”.

SECTION 33. Section 72Y of said chapter 111, as so appearing, is hereby amended by striking out, in lines 11 to 12, the word “retarded” and inserting in place thereof the following words:- persons with intellectual or developmental disabilities.

SECTION 34. Section 193 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 12 to 13, the words “or retarded”.

SECTION 35. Section 23 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out, in lines 49 to 50, the words “mental retardation” and inserting in place thereof the following words:- intellectual or developmental disabilities.

SECTION 36. Section 38A of chapter 121B of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the words “mental retardation” and inserting in place thereof the following words:- intellectual or developmental disabilities.

SECTION 37. Section 1 of chapter 122 of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the words “mental retardation” and inserting in place thereof the following:- intellectual or developmental disability.

SECTION 38. Section 14 of said chapter 122, as so appearing, is hereby amended by striking out, in lines 3 to 4, the words “mental retardation” and inserting in place thereof the following words:- intellectual or developmental disability.

SECTION 39. Section 1 of chapter 123A of the General Laws, as so appearing, is hereby amended by striking out, in lines 45 to 46, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 40. Chapter 123B of the General Laws is hereby amended by striking out the title and inserting in place thereof the following title:- Developmental Services.

SECTION 41. Section 3 of said chapter 123B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 5, the phrase “the mentally retarded” and inserting in place thereof the following:- persons with intellectual disabilities.

SECTION 42. Section 133E of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 43. Said section 13 of said chapter 131 is hereby amended by striking out, in lines 49 and 50, the words “mentally retarded” and inserting in place thereof, in each instance, the following words:- intellectually or developmentally disabled.

SECTION 44. Section 30A of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 45. Section 28 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 to 14, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with intellectual or developmental disabilities.

SECTION 46. Subsection(a) of section 5 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the word “handicap” and inserting in place thereof the following word:- disability.

SECTION 47. Section 25 of said chapter 161A, as so appearing, is hereby amended by striking out, in lines 22 to 23, the words “handicapping condition” and inserting in place thereof the following words:- disability.

SECTION 48. Section 120A of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- intellectual or developmental disability.

SECTION 49. Section 17A of chapter 186 of the General Laws, as so appearing, is hereby amended by striking out, in line 72, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual or developmental disability.

SECTION 50. Section 5-101 of chapter 190B of the General Laws, as so appearing, is hereby amended by striking out paragraph (12) .

SECTION 51. Said section 5-101 of said chapter 190B, as so appearing, is hereby further amended by inserting after paragraph (18), the following paragraph:-

(18A) “Person with a developmental disability”, (a) an individual 5 years of age or older with a severe, chronic disability that: (i) is attributable to a mental or physical impairment resulting from intellectual disability, autism, Smith-Magenis syndrome or Prader-Willi syndrome; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (1) self-care; (2) receptive and expressive language; (3) learning; (4) mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-sufficiency; and (v) reflects the individual's need for a combination and sequence of special, interdisciplinary or generic services, supports or other assistance that is of a lifelong or extended duration and is individually planned and coordinated; or (b) an individual under the age of 5 who has a substantial developmental delay or specific congenital or acquired condition with a high probability that the condition will result in a developmental disability if services are not provided. A person who has a developmental disability may be considered to be mentally ill; provided, however, that no person with a developmental disability shall be considered to be mentally ill solely by reason of the person's developmental disability.

SECTION 52. Section 5-304 of said chapter 190B, as so appearing, is hereby amended by striking

out, in line 16, the words “mentally retarded” and inserting in place thereof the following words:- intellectually or developmentally disabled.

SECTION 53. Section 5-309 of said chapter 190B, as so appearing, is hereby amended by striking out, in line 57, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 54. Section 32 of chapter 209 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 55. Section 85V of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the words “mentally retarded” and inserting in place thereof the following words:- persons with intellectual or developmental disabilities.

SECTION 56. Section 23E of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in lines 36 and 50, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 57. Section 5B of chapter 260 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word “handicap” and inserting in place thereof the following word:- disability.

SECTION 58. Section 13F of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2, 3, 12, 13, 14 to 15, and 15 to 16, the words “an intellectual disability” and inserting in place thereof, in each instance, the following words:- an intellectual or developmental disability.

SECTION 59. Said section 13F of said chapter 265, as so appearing, is hereby further amended by striking out, in lines 21 to 22, and line 22, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual or developmental disability.

SECTION 60. Section 45 of said chapter 265, as so appearing, is hereby amended by striking out, in line 3, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual or developmental disability.

SECTION 61. Section 7 of chapter 268A of the General Laws, as so appearing, is hereby amended by striking out, in line 66, the words “mentally retarded” and inserting in place thereof the following words:- intellectually or developmentally disabled.