

SENATE No. 2708

Senate, May 18, 2020 -- Text of the Senate still still further amendment (Senator Rodrigues) to the House Bill addressing COVID-19 data collection and disparities in treatment (House, No. 4672).

The Commonwealth of Massachusetts

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

1 SECTION 1. (a) As used in this section, the following words shall have the following
2 meanings unless the context clearly requires otherwise:-

3 “Long-term care facilities”, the Soldiers’ Home in Chelsea, the Soldiers’ Home in
4 Holyoke or a convalescent home, a nursing home, a skilled nursing facility, an intermediate care
5 facility, a rest home, a charitable home for the aged licensed under section 71 of chapter 111 of
6 the General Laws, or any other facility licensed as a long-term care facility by the department of
7 public health.

8 (b) Notwithstanding any general or special law to the contrary, the department of public
9 health shall daily collect and compile data from all boards of health, as defined in section 1 of
10 chapter 111 of the General Laws, and from any person, corporation, association, partnership or
11 other legal entity over which the department has regulatory authority, that is related to the
12 outbreak of the 2019 novel coronavirus, also known as COVID-19, in the commonwealth.

13 The data shall include, but not be limited to: (i) the total number of people tested for
14 COVID-19 within the previous 24 hours; (ii) the aggregate number of people tested for COVID-
15 19 since the governor’s March 10, 2020 declaration of a state of emergency; (iii) the total

16 number of people who have tested positive for COVID-19 within the previous 24 hours; (iv) the
17 aggregate number of people who have tested positive for COVID-19 since the governor's March
18 10, 2020 declaration of a state of emergency; (v) the total number of people hospitalized due to a
19 probable or confirmed case of COVID-19 or from complications related to COVID-19 within the
20 previous 7 days; (vi) the aggregate number of people hospitalized due to a probable or confirmed
21 case of COVID-19 or from complications related to COVID-19 since the governor's March 10,
22 2020 declaration of a state of emergency; (vii) the total number of people who have died due to a
23 probable or confirmed case of COVID-19 or from complications related to COVID-19, as
24 reported in the previous 24 hours through the department's receipt of vital records; (viii) the
25 aggregate number of people who have died due to a probable or confirmed case of COVID-19 or
26 from complications related to COVID-19 since the governor's March 10, 2020 declaration of a
27 state of emergency; and (ix) demographic information for all individuals tested for, found
28 positive for, hospitalized due to a probable or confirmed case of or who died from a confirmed
29 case of COVID-19, including, but not limited to: (A) gender; (B) race; (C) ethnicity; (D) primary
30 city or town of residence; (E) age; (F) disability; (G) primary language; (H) occupation; and (I)
31 any other demographic information that the department deems important to understand the
32 disparate impact of COVID-19 on certain populations; provided, however, that demographic
33 information for individuals tested for COVID-19 and individuals hospitalized due to a confirmed
34 case of COVID-19 shall be compiled and reported not less than every 3 days.

35 (c) Daily, the department of public health shall publish a report on the data compiled
36 pursuant to subsection (b) on its website. The report shall include data compiled pursuant to said
37 subsection (b) as it applies to the following categories: (i) geographic location, including
38 statewide, by county and by municipality with 25 or more confirmed cases; provided, however,

39 that such data shall reflect the primary residence of the impacted populations; (ii) assisted living
40 residences licensed by the executive office of elder affairs and long-term care facilities, including
41 the number of COVID-19 positive cases and mortalities among residents, as well as the
42 aggregate number of COVID-19 positive cases and mortalities among staff, by occupation, at
43 each residence or facility; and (iii) state and county correctional facilities, including the number
44 of COVID-19 positive cases and mortalities among individuals who are incarcerated, as well as
45 the aggregate number of COVID-19 positive cases and mortalities among staff, by occupation, at
46 each facility. The department shall also report on its website, for each state and county
47 correctional facility: (i) the total number of residents per correctional facility; and (ii) the number
48 of residents within each facility who are housed in a cell: (A) alone; (B) with 1 other person; or
49 (C) with 2 or more other people; provided, however, that the department of correction and each
50 sheriff shall provide this residential housing count information not less than weekly to the
51 department of public health.

52 Each daily report shall be structured in a manner that permits the comparison and
53 stratification of data and the identification of trends, testing, infection, hospitalization and
54 mortality based on demographic factors collected under this section. All data collected pursuant
55 to this section shall be available for download from the department of public health's website in
56 a machine-readable format consistent with commonly available data analysis software.

57 If the department determines that a provision of this section would violate any privacy
58 law, disclose personal identifying information or otherwise make any individual identifiable, the
59 department may aggregate information for any particular demographic factor over several days.

60 (d) An assisted living residence licensed by the executive office of elder affairs or a long-
61 term care facility shall notify residents and their representatives within 12 hours if: (i) there is a
62 confirmed case of or mortality due to COVID-19 among residents or staff; or (ii) 3 or more
63 residents or staff at the residence or facility present with new-onset of respiratory symptoms
64 within the previous 72 hours.

65 (e) Two weeks after the effective date of this act and every 2 weeks thereafter, the
66 department of public health shall report to the clerks of the house of representatives and senate
67 and the joint committee on public health on its implementation of this section.

68 The report shall include, but not be limited to, information on the issuance of relevant
69 guidance and the implementation of training protocols for and compliance by relevant entities
70 regarding the collection and reporting of data under this section to the department and a
71 summary, prepared by the executive office of health and human services, of actions being taken
72 to respond to disparities identified through data collected under this section. The report shall also
73 identify any barriers to receiving or reporting data pursuant to this section and specify the
74 manner in which the department shall seek to improve compliance with this section.

75 SECTION 2. (a) Notwithstanding any general or special law to the contrary, there shall
76 be a task force to study and make policy recommendations to the general court that address
77 health disparities for underserved or underrepresented populations based on culture, race,
78 ethnicity, language, disability, gender identity, sexual orientation, geographic location, including,
79 but not limited to, gateway cities with hospitals dedicated to caring for patients who test positive
80 for COVID-19, and age in the commonwealth during the COVID-19 pandemic.

81 (b) The recommendations shall include, but not be limited to, ways to: (i) improve safety
82 for populations at increased risk for COVID-19, which may include, but shall not be limited to:
83 (A) employees of businesses and organizations defined as providing “COVID-19 Essential
84 Services” under the governor’s March 23, 2020 emergency order; (B) individuals residing in
85 congregate housing and group home facilities, including, but not limited to, those operating
86 under contract with the department of developmental services, the department of mental health,
87 the department of children and families, executive office of elder affairs, the department of
88 housing and community development, the department of youth services, and the department of
89 public health; (C) individuals confined within a house of correction or department of correction
90 facility; (D) individuals with underlying medical conditions linked to increased risk of severe
91 illness from COVID-19 according to the federal Centers for Disease Control and Prevention; and
92 (E) individuals residing in municipalities or neighborhoods disproportionately impacted by
93 COVID-19; (ii) remove barriers and increase access to quality and equitable health care services
94 and treatment; (iii) increase access to medical supplies; (iv) increase access to testing for
95 COVID-19, including identifying ways to ensure that testing occurs in diverse geographic
96 locations throughout the commonwealth; (v) provide informational materials to underserved or
97 underrepresented populations in multiple languages on available and affordable health care
98 resources in the commonwealth, including, but not limited to, prevention, testing, treatment and
99 recovery; and (vi) address any other factor the task force deems relevant to address health
100 disparities for underserved or underrepresented populations based on culture, race, ethnicity,
101 language, disability, gender identity, sexual orientation, geographic location and age in the
102 commonwealth during the COVID-19 pandemic.

103 As part of its recommendations, the task force may recommend the further study of the
104 impact of disparities on populations not subject to this study.

105 (c) The task force shall consist of: 6 members appointed by the senate president, not more
106 than 2 of whom shall be members of the senate; 6 members appointed by the speaker of the
107 house of representatives, not more than 2 of whom shall be members of the house of
108 representatives; 1 member appointed by the minority leader of the senate; 1 member appointed
109 by the minority leader of the house of representatives; the chair of the Massachusetts Asian-
110 American Legislative Caucus or a designee; and the chair of the Massachusetts Black and Latino
111 Legislative Caucus or a designee. Task force membership shall reflect diverse representation in
112 the commonwealth including, but not limited to, diverse cultures, races, ethnicities, languages,
113 disabilities, gender identities, sexual orientations, geographic locations and ages.

114 Appointees of the senate president, speaker of the house, minority leader of the senate
115 and minority leader of the house who are not members of the general court shall be
116 knowledgeable in public health or healthcare. When making appointments, the senate president,
117 speaker of the house, minority leader of the senate and minority leader of the house shall give
118 consideration to individuals who have experience addressing disparities in underserved or
119 underrepresented populations based on culture, race, ethnicity, language, disability, gender
120 identity, sexual orientation, geographic location and age or who work in the healthcare system
121 with a diverse patient population. Two members of the task force shall be elected by a majority
122 of the task force membership to serve as co-chairs; provided, however, that neither member shall
123 be a member of the general court.

124 The task force may consult with the office of healthy equity to inform its work. The
125 office of health equity shall provide requested information to the task force upon request.

126 (d) The task force shall file its recommendations with the clerks of the house of
127 representatives and the senate and the house and senate committees on ways and means not later
128 than August 1, 2020.

129 (e) The task force shall file an interim report describing any initial recommendations and
130 issues requiring further study with the clerks of the house of representatives and the senate and
131 the house and senate committees on ways and means not later than June 1, 2020; provided,
132 however, that the task force may file earlier interim recommendations if deemed advisable or
133 additional interim recommendations between June 1, 2020 and August 1, 2020.

134 (f) The task force shall hold at least 1 public hearing and accept public comment before
135 filing its interim report under subsection (e) and shall hold not less than 2 additional public
136 hearings and accept public comment before filing its final report under subsection (d); provided,
137 however, that the task force may hold virtual public hearings if it is in the interest of public
138 health.

139 SECTION 3. Notwithstanding any general or special law to the contrary, the department
140 of correction and each house of correction shall provide any data necessary to implement
141 sections 1 and 2 to the department of public health.

142 SECTION 4. Notwithstanding any general or special law to the contrary, the department
143 of public health may enter into interagency agreements with other state agencies to facilitate data
144 requested pursuant to this act.

145 SECTION 5. As used in this section, the term “elderly housing facilities” shall mean a
146 residential premises available for lease by elderly or disabled individuals that is financed or
147 subsidized in whole or in part by state or federal housing programs established primarily to
148 furnish housing rather than housing and personal services, as set forth in a listing established by
149 the secretary of elder affairs, and that was never licensed under chapter 111 of the General Laws.

150 To the extent feasible, the department of public health shall collect data from elder
151 housing facilities, including the number of COVID-19 positive cases and mortalities among
152 residents and staff. The department may contract with or collaborate with an academic research
153 institution in order to collect data.

154 The data may include, but shall not be limited to, the data described under subsection (b)
155 of section 1; provided, however, that any data collected under this section shall be incorporated
156 into the reports under subsection (c) of section 1.

157 SECTION 6. Sections 1 and 3 to 5, inclusive, are hereby repealed.

158 SECTION 7. Section 6 shall take effect on the date on which the governor certifies that
159 the department of public health has not received a report within the preceding 30 days of a
160 positive test of COVID-19 in the commonwealth.