

**SENATE . . . . . No. 2753**

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**The Commonwealth of Massachusetts**



CHARLES D. BAKER  
GOVERNOR

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KARYN POLITO  
LIEUTENANT GOVERNOR

*June 8, 2020*

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act to Ensure the Collection of COVID-19 Data.” The 2019 novel coronavirus, commonly known as COVID-19, has taken a tremendous toll on the lives of the residents of the Commonwealth. And that toll has been borne disproportionately by certain populations – communities of color and older residents of nursing homes and long-term care facilities. I commend the legislature on the passage of An Act Addressing COVID-19 Data Collection and Disparities in Treatment, which will allow for the collection and publication of even more data to understand the impact of COVID-19 on underserved and underrepresented populations and other groups. Since the beginning of the pandemic, my Administration has continued to provide and expand daily data reporting for the public that is transparent and comprehensive. The expanded data collection and task force in this bill will help build on these steps to address the health disparities affecting these communities.

While the new law makes clear that the Department of Public Health is required to collect data on COVID-19 cases and patient demographics, it does not codify the providers’ and laboratories’ responsibility to timely and completely report this data to the Department. The quality of the data reported by the Department is entirely dependent on the quality and completeness of the data that is submitted by healthcare providers and laboratories. To that end, this legislation amends the reporting law to make this responsibility clear, and to give the Department the power to issue fines if providers do not comply.

I am also proposing two other amendments to the law. The law currently requires that a list of designated elder care facilities report COVID-19 data about their residents and staff. While it makes sense to collect this data from the facilities that have access to their residents' health information, like nursing homes and skilled nursing facilities, this law also imposes this obligation on housing complexes and rental units that merely offer housing to the elderly. These housing complexes and rental units have no role in health care or access to their tenants' health information, and yet these private landlords will now be required by law to report on whether their residents have COVID-19, both to the Department of Public Health and to the other residents of the complex. This is problematic on a number of fronts. First, the information they report is likely to be incomplete and misleading. Even more concerning is that these housing complexes will be encouraged to seek out the private health information of their residents, which, concerning in and of itself, could also lead to unfair discrimination against those with the disease. For these reasons, this legislation proposes to eliminate any obligation on these housing complexes to report COVID-19 data. Lastly, this legislation proposes an amendment that would allow the Department to aggregate the data where not doing so would violate federal law or an individuals' privacy right.

I want to reiterate my, along with the Department of Public Health's, support for this new law, and our commitment to collecting this data and using it to understand and address the health disparities our citizens have experienced. Because this legislation will enable us to do that, I urge its prompt enactment.

Respectfully submitted, Charles D. Baker Governor

Charles D. Baker,  
*Governor*

The Commonwealth of Massachusetts

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

An Act to Ensure the Collection of COVID-19 Data.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the health and wellness of the residents of the Commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health., therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

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

1           SECTION 1. Subsection (a) of section 1 of chapter 93 of the acts of 2020 is hereby  
2 amended by striking out the following words, “(6) elderly housing facilities; (7) any residential  
3 premises available for lease by elderly or disabled individuals that is financed or subsidized in  
4 whole or in part by state or federal housing programs established primarily to furnish housing  
5 rather than housing and personal services, as set forth in a listing established by the secretary of  
6 elder affairs, and that was never licensed under chapter 111 of the General Laws; or (8)” and  
7 inserting in place thereof the following words:- or (6).

8           SECTION 2. Subsection (e) of said section 1 of said chapter 93 is hereby amended by  
9 striking out the second sentence and inserting in place thereof the following 2 sentences:- The  
10 department of public health may aggregate the data for any particular factor if not doing so  
11 would violate federal law or the privacy of any individual. All data reported pursuant to this

12 section shall be available for download from the department's website in a machine-readable  
13 format consistent with commonly available data analysis software.

14 SECTION 3. Said section 1 of said chapter 93 is hereby further amended by adding the  
15 following new subsection:-

16 (h) The department of public health may issue regulations to implement the reporting  
17 requirements in subsections (b) and (c), which regulations may provide penalties for violations  
18 thereof not exceeding \$2,000 per day per violation.

19 SECTION 4. This act shall take effect upon its passage.