

**AN ACT ADDRESSING COVID-19 DATA COLLECTION AND DISPARITIES
IN TREATMENT**
[2020 Mass. Acts 93](#)

On June 7, 2020, Governor Baker signed the COVID-19 data reporting law that allows for the collection and publication of certain data and creates a task force to understand the impact of COVID-19 on underserved and underrepresented populations.

Reporting Requirements for Elder Care Facilities

The law requires elder care facilities to report daily to the local board of health where the facility is located and to the Department of Public Health (DPH) the number of known COVID-19 cases and mortalities among residents and staff. The law requires DPH to publish this data broken down by elder care facility daily on its website.

The law also requires elder care facilities to notify residents and each resident’s health care proxy or other legally authorized representative by 5:00 p.m. the next day if:

- (1) there is a new confirmed case or mortality due to COVID-19 among residents or staff; or
- (2) 3 or more residents or staff present with new-onset of respiratory symptoms within the previous 72 hours.

The law defines “elder care facility” to include all federally and state subsidized public and affordable housing developments for seniors or persons with disabilities in Massachusetts. The reporting requirements also apply to all age-restricted housing developments for seniors in Massachusetts, including market-rate developments that do not receive any federal or state subsidy.

The law keeps the reporting requirements in effect until the Governor certifies that DPH has not received a report of a positive test of COVID-19 for 30 days.

Specifically, the law defines “elder care facilities” to include:

- (1) Soldiers’ Home in Massachusetts located in Chelsea;
- (2) Soldiers’ Home in Holyoke;
- (3) a convalescent home, nursing home, intermediate care facility for persons with an intellectual disability, rest home, or charitable home for the aged licensed by the Department of Public Health (DPH);
- (4) a skilled nursing facility;
- (5) assisted living residences licensed by the Executive Office of Elder Affairs (EOEA);
- (6) elderly housing facilities;
- (7) any residential premises available for lease by elderly or disabled individuals financed or subsidized by state and federal housing programs that are not assisted living residences licensed by EOEA or other housing licensed by DPH; and
- (8) any other facility licensed as a long-term care facility by DPH.

COVID-19 Data that DPH is Required to Collect

The law requires DPH to collect and compile COVID-19 data daily from all boards of health. The data shall include:

- (1) total number of people tested for COVID-19 in the previous 24 hours;
- (2) aggregate number of people tested for COVID-19 since March 10, 2020;
- (3) total number of people who tested positive for COVID-19 in the previous 24 hours;
- (4) aggregate number of people who tested positive for COVID-19 since March 10, 2020;
- (5) the total number of people hospitalized due to a probable or confirmed case of COVID-19 or from complications related to COVID-19 within the previous 7 days;
- (6) the aggregate number of people hospitalized due to a probable or confirmed case of COVID-19 or from complications related to COVID-19 since March 10, 2020;
- (7) the total number of people who have died due to a probable or confirmed case of COVID-19 or from complications related to COVID-19 in the previous 24 hours;
- (8) the aggregate number of people who have died due to a probable or confirmed case of COVID-19 or from complications related to COVID-19 since March 10, 2020;
- (9) the number of known COVID-19 positive cases and mortalities among elder care facility residents and staff;
- (10) demographic information for all individuals tested for, found positive for, hospitalized due to a probable or confirmed case of or who died from a confirmed case of COVID-19.

The demographic information must include: (i) gender; (ii) race; (iii) ethnicity; (iv) primary city or town of residence; (v) age; (vi) disability; (vii) primary language; (viii) occupation; and (ix) any other demographic information that the department deems important to understand the disparate impact of COVID-19 on certain populations. This demographic information only needs to be compiled and reported every 3 days.

Data Publishing Requirement for DPH

The law requires DPH to publish a daily report on its website containing the COVID-19 information it collects and the data DPH receives from elder care facilities and local boards of health. Data in the report must be broken down by:

- (1) geographic location, including statewide, by county, and by municipality with 25+ confirmed cases;
- (2) elder care facilities reporting COVID-19 cases and mortalities among residents. This report must also contain the aggregate known number of cases and mortalities among residents and staff at each elder care facility. The information on staff must also be broken down by occupation.

- (3) state and county correctional facilities, including the aggregate number of COVID-19 cases and mortalities among incarcerated individuals and staff. The information on staff must also be broken down by occupation.

For each state and county correctional facility, DPH must also report on its website the total number of residents per correctional facility and the number of residents house per cell. This information need only be reported weekly.

The daily report must be structured in a manner that permits the comparison and stratification of data and the identification of trends, testing, infection, hospitalization and mortality based on demographic factors. The data much also be available for download.

Required Reports from DPH and EOHHS

The law requires DPH to report on the implementation of these data reporting requirements to the Legislature. The report must include information on any relevant guidance issued, any training protocols implemented, and compliance be relevant entities regarding the collection and reporting of data.

The Executive Office of Health and Human Services (EOHHS) must also prepare a summary of actions being taken to respond to disparities identified through the data collected on COVID-19. The summary must also include ay barriers to receiving or reporting required data and how EOHHS is trying to improve compliance with the data collection.

COVID-19 Disparities Task Force

The law creates a task force to study and make recommendations that address health disparities for underserved or underrepresented populations based on culture, race, ethnicity, language, disability, gender identity, sexual orientation, geographic location. The task force shall make its recommendations by August 1, 2020.

STATUTE LANGUAGE:

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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.

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

SECTION 1. (a) As used in this section, “elder care facilities” shall include: (1) the Soldiers’ Home in Massachusetts located in the city of Chelsea; (2) the Soldiers’ Home in Holyoke; (3) a convalescent home, nursing home, intermediate care facility for persons with an intellectual disability, rest home or charitable home for the aged licensed pursuant to section 71 of chapter 111 of the General Laws; (4) a skilled nursing facility; (5) assisted living residences licensed by the executive office of elder affairs; (6) elderly housing facilities; (7) any residential premises available for lease by elderly or disabled individuals that is financed or subsidized in whole or in part by state or federal housing programs established primarily to furnish housing rather than housing and personal services, as set forth in a listing established by the secretary of elder affairs, and that was never licensed under chapter 111 of the General Laws; or (8) any other facility licensed as a long-term care facility by the department of public health.

(b) Notwithstanding any general or special law to the contrary, elder care facilities shall report daily to the local department of health in the municipality where said facilities are located and to the department of public health data including without limitation the number of known COVID-19 positive cases among residents; the number of known mortalities among the residents; the number of known positive cases among the staff; and the number of known mortalities among the staff.

(c) Notwithstanding any general or special law to the contrary, the department of public health shall, on a daily basis, collect and compile data from all boards of health, as defined in section 1 of chapter 111 of the General Laws, and from any person, corporation, association, partnership or other legal entity over which the department has regulatory authority, that is related to the outbreak of the 2019 novel coronavirus, also known as COVID-19, in the commonwealth. Said data shall include, but shall not be limited to, the following: (1) the total number of people tested for COVID-19 within the previous 24 hours; (2) the aggregate number of people tested for COVID-19 since the governor’s March 10, 2020 declaration of a state of emergency; (3) the total number of people who have tested positive for COVID-19 within the previous 24 hours; (4) the aggregate number of people who have tested positive for COVID-19 since the governor’s March 10, 2020 declaration of a state of emergency; (5) the total number of people hospitalized due to a probable or confirmed case of COVID-19 or from complications

related to COVID-19 within the previous 7 days; (6) the aggregate number of people hospitalized due to a probable or confirmed case of COVID-19 or from complications related to COVID-19 since the governor's March 10, 2020 declaration of a state of emergency; (7) the total number of people who have died due to a probable or confirmed case of COVID-19 or from complications related to COVID-19, as reported in the previous 24 hours through the department's receipt of vital records; (8) the aggregate number of people who have died due to a probable or confirmed case of COVID-19 or from complications related to COVID-19 since the governor's March 10, 2020 declaration of a state of emergency; (9) the number of known COVID-19 positive cases among elder care facility residents; the number of known mortalities among the residents; the number of known positive cases among elder care facility staff; and the number of known mortalities among the staff; and (10) demographic information for all individuals tested for, found positive for, hospitalized due to a probable or confirmed case of or who died from a confirmed case of COVID-19, including, but not limited to: (i) gender; (ii) race; (iii) ethnicity; (iv) primary city or town of residence; (v) age; (vi) disability; (vii) primary language; (viii) occupation; and (ix) any other demographic information that the department deems important to understand the disparate impact of COVID-19 on certain populations; provided, however, that demographic information for individuals tested for COVID-19 and individuals hospitalized due to a confirmed case of COVID-19 shall be compiled and reported not less than every 3 days.

(d) Notwithstanding any general or special law to the contrary, the department of public health shall publish a daily report on the data compiled, including data from the elder care facilities and local boards of health, pursuant to subsections (b) and (c) on its website. Said report shall include data broken down as follows: (1) geographic location, including statewide, by county and by municipality with 25 or more confirmed cases; provided, however, that such data shall reflect the primary residence of the impacted populations; (2) elder care facilities reporting COVID-19 positive cases or mortalities and the aggregate known number of COVID-19 positive cases and the aggregate known number of mortalities among residents, at each residence or facility, as well as the aggregate known number of COVID-19 positive cases and the aggregate known number of mortalities among staff, by occupation, at each residence or facility; and (3) state and county correctional facilities, including the aggregate number of COVID-19 positive cases and mortalities among individuals who are incarcerated, as well as the aggregate number of COVID-19 positive cases and mortalities among staff, by occupation, at each facility.

The department shall also report on its website, for each state and county correctional facility: (1) the total number of residents per correctional facility; and (2) the number of residents within each facility who are housed in a cell: (i) alone; (ii) with 1 other person; or (iii) with 2 or more other people; provided, however, that the department of correction and each sheriff shall provide this residential housing count information not less than weekly to the department of public health.

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

(f) The department of public health shall report to the clerks of the house of representatives and the senate and the joint committee on public health on its implementation of this section. Said report shall include, but shall not be limited to, information on the issuance of relevant guidance and the implementation of training protocols for and compliance by relevant entities regarding the collection and reporting of data under this section to the department and a summary, prepared by the executive office of health and human services, of actions being taken to respond to disparities identified through data collected under this section. Said report shall also identify any barriers to receiving or reporting data pursuant to this section and specify the manner in which the department shall seek to improve compliance with this section.

(g) An elder care facility shall notify residents and each resident's health care proxy, emergency contact, legal guardian or other legally authorized representative by 5:00 P.M. the next calendar day if: (1) there is a new confirmed case of or mortality due to COVID-19 among residents or staff; or (2) 3 or more residents or staff at the residence or facility present with new-onset of respiratory symptoms within the previous 72 hours.

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

(b) The recommendations shall include, but shall not be limited to, ways to: (1) improve safety for populations at increased risk for COVID-19, which may include, but shall not be limited to: (i) employees of businesses and organizations defined as providing "COVID-19 Essential Services" under the governor's March 23, 2020 emergency order; (ii) individuals residing in congregate housing and group home facilities, including, but not limited to, those operating under contracts with the department of developmental services, the department of mental health, the department of children and families, executive office of elder affairs, the department of housing and community development, the department of youth services, or the department of public health; (iii) inmates confined to a house of correction or state prison; (iv) individuals with serious underlying medical conditions linked to increased risk of severe illness from COVID-19 according to the federal Centers for Disease Control and Prevention; and (v) individuals residing in municipalities or neighborhoods disproportionately impacted by COVID-19; (2) remove barriers and increase access to quality and equitable

health care services and treatment; (3) increase access to medical supplies; (4) increase access to testing for COVID-19, including identifying ways to ensure that testing occurs in diverse geographic locations throughout the commonwealth; (5) provide informational materials to underserved or underrepresented populations in multiple languages on available and affordable health care resources in the commonwealth, including, but not limited to, prevention, testing, treatment and recovery; and (6) address any other factor the task force deems relevant to address health disparities for underserved or underrepresented populations based on culture, race, ethnicity, language, disability, gender identity, sexual orientation, geographic location and age in the commonwealth during the COVID-19 pandemic. As part of its recommendations, the task force may recommend the further study of the impact of disparities on populations not subject to this study.

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

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

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

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

(e) The task force shall file an interim report describing any initial recommendations and issues requiring further study with the clerks of the house of representatives and the senate and the house and senate committees on ways and means not later than June 30, 2020; provided, however, that the task force may file

earlier interim recommendations if deemed advisable or additional interim recommendations between June 30, 2020 and August 1, 2020.

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

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

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

SECTION 5. Sections 1 and 3 to 4, inclusive, are hereby repealed.

SECTION 6. The governor shall certify in writing to the state secretary when the department of public health has not received a report of a positive test of COVID-19 in the commonwealth within the preceding 30 days.

SECTION 7. Section 5 shall take effect upon the certification required by section 6.