

## **COVID-19 DATA REPORTING LAW FIX FOR HOUSING FOR SENIORS & PERSONS WITH DISABILITIES**

**Title:** An Act to Ensure the Collection of COVID-19 Data  
**Number:** [S.2753](#)  
**Sponsor:** Governor Charlie Baker  
**Prior History:** 6/08/2020: Bill filed  
6/09/2020: Assigned to the [Joint Committee on Public Health](#)

S.2753 amends the recently enacted [COVID-19 data collection law](#) to remove burdensome reporting requirements that the law imposes on all housing developments for seniors and persons with disabilities. The bill also makes other changes to help the Department of Public Health (DPH) effectively implement the law. CHAPA strongly supports S.2753 and asks the Legislature to quickly pass the bill.

### **Removing Burdensome Reporting Requirements on Housing for Seniors & Persons with Disabilities**

CHAPA supports the important goal of the law to allow for the collection and publication of COVID-19 data and to understand the impact and address disparities that the virus has on underserved and underrepresented populations, including, including communities of color and residents of nursing home and correctional facilities.

However, the law imposes concerning and burdensome COVID-19 data reporting requirements on all subsidized, public, and market-rate housing developments for seniors and persons with disabilities in Massachusetts. Specifically, the law requires housing providers to publicly report daily the number of new known COVID-19 cases and deaths to local boards of health, DPH, residents, and each resident's health care proxy.

These reporting requirements should not apply to housing providers for seniors and persons with disabilities. CHAPA agrees that these requirements are important for residents in nursing homes and other skilled-care facilities where medical care is provided to residents. However, subsidized and market-rate housing providers do not administer medical care and do not have access to the private health information of residents.

The reporting requirements will impede transparent information sharing between housing providers and residents and threaten the private health information of residents and staff. The requirements will also take critical resources away from housing providers and their residents that are needed to protect against and prevent the spread of the virus.

Recognizing these concerns, Governor Baker filed S.2753 to remove housing providers for seniors and persons with disabilities from the burdensome reporting requirements. Again, CHAPA strongly urges the Legislature to quickly pass this bill.

### **What the COVID-19 Data Law Requires of Housing Providers**

The law requires that all housing developments for seniors and persons with disabilities report daily to their local board of health and to DPH the number of known COVID-19 cases and deaths among residents and staff. DPH must publish this data broken down by elder care facility on its website.

These housing providers must also notify residents and each resident's health care proxy or other legal representative by 5:00 p.m. the next day if there is a new confirmed case or death due to COVID-19 among residents or staff. Notification must also be provided if three or more residents or staff have a new-onset of respiratory symptoms within the past 72 hours.

### **S.2753 Removes the Reporting Requirement on Housing for Seniors & Persons with Disabilities**

S.2753 removes housing providers for seniors and persons with disabilities from the COVID-19 data reporting requirements.<sup>1</sup> The reporting requirements of the new law will be extremely burdensome on housing providers for seniors and persons with disabilities. The requirements should not apply to these housing providers for several key reasons:

- The law requires housing providers to report "known" COVID-19 cases and deaths of staff and residents. Housing providers have no way to know about cases unless the resident or their family choose to inform the housing provider. This is not a reliable way to gather information on COVID-19 cases as the data could be incomplete or inaccurate.
- The law requires housing providers to notify not only all the residents of a facility where a COVID-19 case occurred but also each resident's health care proxy. Housing providers do not, as a practice, keep this information.
- The reporting requirements run counter to the expressed will of tenants in many senior housing developments. At the start of the pandemic, housing providers began notifying residents of each COVID-19 case or death. However, residents actually asked the housing provider to stop the notifications as they scared residents and caused undue anxiety without any guidance about how to remain safe as a result of the notification.
- The reporting requirements will force staff to conduct extensive notification exercises instead of actually keeping tenants safe. Complying with these requirements will take critical resources and staff time away from performing tasks like cleanings that proactively prevent the spread of the virus.

For these reasons, CHAPA strongly supports S.2753 to allow housing providers to more effectively protect residents and prevent the spread of COVID-19.

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<sup>1</sup> S. 2753, 191st Gen. Ct. § 1 (Mass. 2020).

### **Other Provisions of S.2753**

S.2753 also makes two changes that will help DPH effectively administer the COVID-19 date reporting law. First, the bill would allow DPH to aggregate data where not doing so would violate federal law or individual privacy rights.<sup>2</sup> Second, S.2753 would authorize DPH to issue regulations to implement the reporting requirements, including the authority to impose penalties of up to \$2,000/day per violation.<sup>3</sup>

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<sup>2</sup> S. 2753, § 2.

<sup>3</sup> S. 2753, § 3.