

By Mr. Pacheco of Taunton, petition of Marc R. Pacheco, Joan M. Menard, Stanley C. Rosenberg and David F. Gately for legislation to provide for continued service at public health, mental health and mental retardation facilities. State Administration.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT PROVIDING FOR CONTINUED SERVICES TO THE ELDERLY, THE INFIRMED, THE MENTALLY ILL, THE MENTALLY RETARDED, AND PERSONS IN NEED OF RESPITE CARE.

1     *Whereas*, The deferred operation of this act would tend to  
2 defeat its purpose, which is to immediately insure the continued  
3 delivery of health services in the commonwealth, therefore it is  
4 hereby declared to be an emergency law, necessary for the  
5 immediate preservation of the public convenience.

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

1     Notwithstanding any general or special law to the contrary,  
2 before any recommendations of the "Governor's Commission on  
3 Facility Consolidation" are implemented, the Governor shall file  
4 with the Great and General Court and have approved by passage  
5 of legislation a plan for:

6     A) The transfer of clients from any Public Health, Mental  
7 Health, or Mental Retardation facility unless said transfer is for  
8 medical reasons not resulting from reduction or termination of  
9 services of a state facility.

10    B) The consolidation and/or closing of any DPH, DMH, or  
11 DMR facility, or inpatient unit.

12    C) The disposition of any state land currently occupied by a  
13 DPH, DMH, DMR facility, or inpatient unit.

14    Said plan shall include but not be limited to:

15    1. A specific economic impact analysis that identifies the  
16 financial cost that each proposed facility closing will impose on

17 the regional economy, including the withdrawal of facility-based  
18 client and employee expenditures as well as institutional  
19 expenditures from local and regional businesses and municipal-  
20 ities. If any other facilities are anticipated for closure, those  
21 potential facility closings will be included into this study as well.

22 2. A breakdown of the number of clients affected by the  
23 proposed facility closure; a statement of the specific type of  
24 recommended residential placement as identified by the retarded  
25 person's individual service plan or a patient's treatment plan as  
26 approved by a qualified licensed physician; in instances where the  
27 retarded person or patient is proposed for a community  
28 placement, a breakdown on an individual basis of where the  
29 community placement is located, whether the community  
30 residence is operational, a statement that all recommended  
31 services, as identified by the retarded individual's individual  
32 service plan or patient's treatment plan, will be provided, and the  
33 names and addresses of all providers of services who will be  
34 delivering the services, as recommended by the individual service  
35 plan or treatment plan (whichever is applicable), and a breakdown  
36 of the total state cost for providing all services relative to each  
37 proposed transfer.

38 3. A clinical evaluation performed by a qualified licensed  
39 physician, who must examine each individual proposed for  
40 transfer and make a clinical determination as to whether there is  
41 a substantial risk that the retarded individual or patient will  
42 deteriorate or die as the result of the proposed transfer.

43 4. A statement of the number of guardians of retarded  
44 individuals, where applicable, or other legally authorized body  
45 who have given informed consent to the proposed transfer of the  
46 retarded ward, pursuant to M.G.L. c.123B, section 3, and the  
47 identification by facility of each objecting guardian.

48 5. A detailed plan for employee protections. This plan shall  
49 include any early retirement options, transfers to other facilities,  
50 and/or layoffs. Said plan shall provide for the preservation of  
51 employee rights and benefits including but not limited to  
52 retirement, pension, civil service, collective bargaining, and health  
53 and life insurance, as indicated in the federal Final Rule on  
54 Developmental Disability Assistance and Bill of Rights Act.

55 6. A statement of how the state will use the facility once it is  
56 closed, and any anticipated or actual purchasers or tenants.

57 7. A statement that, for those individuals who are members of  
58 the federal class action suit for the retarded, the Governor as a  
59 defendant to that action has obtained the federal court's approval  
60 to transfer each individual affected as the result of the  
61 consolidation committee's proposal.

62 8. A detailed funding plan, including but not limited to any  
63 capital outlay expenditures needed by other facilities that will be  
64 admitting the individuals who are transferred under the  
65 consolidation commission's proposal.

66 9. A detailed plan of where community based clients will receive  
67 day programs including the number that will be state operated  
68 and the number that will be vendor operated.

69 All programs or services operating within or on the grounds  
70 of any Public Health, Mental Health, Mental Retardation facility,  
71 or inpatient unit before June 1, 1991 which have been terminated,  
72 transferred or otherwise reduced after said June 1, 1991 without  
73 legislative approval, shall be forthwith restored to same  
74 operational status as if said program or service were not  
75 terminated, transferred or otherwise reduced.

