

The Commonwealth of Massachusetts



THE COMMONWEALTH OF MASSACHUSETTS EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

MICHAEL S. DUKAKIS
GOVERNOR

July 3, 1985

To the Honorable Senate and House of Representatives:

I find unacceptable as written sections 44, 47, and 61 of H. 6100 and, pursuant to the authority vested in me by Article LVI of the Amendments to the Massachusetts Constitution, I am returning for amendment those sections, with the following recommended amendments:

SECTION 44. This section prohibits the Department of Mental Health from holding anyone under the age of 22 in a state funded mental health hospital or clinic unless the individual is housed in a separate unit with individuals of the same age.

Inpatient mental health units that primarily serve mentally ill adults are generally inappropriate to meet the needs of individuals under the age of 22. Accordingly, on July 26, 1984, I issued Executive Order 244 which requires the Department of Mental Health to establish separate units for individuals under the age of 19 and individuals between the ages of 19 and 22 who are receiving structured special education services pursuant to Chapter 766. Section 44 would expand the requirements of Executive Order 244 by extending its provisions to all individuals between the ages of 19 and 22. Decisions as to what services are necessary to meet the needs of these young adults are, however, best made on a case by case basis.

I therefore recommend that section 44 be amended by striking the first sentence and inserting in place thereof the following:--

SECTION 44. Any individual who has not attained the age of nineteen or any mentally ill individual between the ages of nineteen and twenty-two, who is receiving structured services pursuant to Chapter 766, shall not be confined or allowed to reside in any mental health hospital or inpatient unit of a state funded mental health clinic under the direction and control of the department of mental health unless such individual is housed within a separate unit with individuals of the same age grouping.

SECTION 47. This section authorizes the board of trustees at public colleges and universities to increase tuition by no more than fifteen percent and to establish a tuition retention fund to collect the revenue derived from increased tuition.

This tuition retention provision violates Article 63 of the Amendments to the Massachusetts Constitution in that the money would not be deposited into the treasury and the trustees would be able to spend the money without appropriation. In addition, this section provides that all non-resident alien students shall pay tuition rates commensurate with the full-time equivalent cost for educational services. To the extent that this provision could ever lead to disparate treatment of non-resident students on the basis of alien status, it would be constitutionally suspect as a denial of equal protection.

I therefore recommend that outside section 47 be amended by striking it in its entirety and inserting in place thereof the following:--

SECTION 47. Notwithstanding the provisions of any general or special law to the contrary, during fiscal year nineteen hundred and eighty-six, the boards of trustees at each public college and university in the commonwealth are hereby authorized to increase the level of tuition at such college or university by no more than fifteen percent in excess of the present levels of tuition as established pursuant to section five of chapter fifteen A of the General Laws; provided, however, that such increases in tuition shall be implemented only after a majority vote to do so by the board of trustees of said college or university and a majority vote to do so by the board of regents of higher education. Any expenditure resulting from said tuition shall continue at no expense to the commonwealth. The board of trustees at each public college and university in the commonwealth shall deposit into a tuition revenue fund established in the Treasury of the Commonwealth any tuition revenue generated by increasing the present level of tuition consistent with this section. Each such fund, subject to appropriation, shall be subject to the control and authority of the board of trustees at the college or university at which it is established; provided, however, that such college or university shall prepare a spending plan for the uses of the fund, subject to the approval of the board of trustees. Each such spending plan shall provide for expenditures of the fund only upon educational programs or purchases designed specifically to enhance and improve the quality of education at such college or university. Upon approval of a spending plan, the board of trustees shall file a copy of said plan with the house and senate committees on ways and means. The board of trustees of each college or university implementing such tuition increase shall file a detailed expenditure analysis on a quarterly basis with the said board of regents and the house and senate committees on ways and means.

SECTION 61. This section requires the department of mental health to develop by August 30, 1985 a medium security facility for the care and treatment of persons adjudged not guilty of a crime by reason of a mental illness or a mental defect.

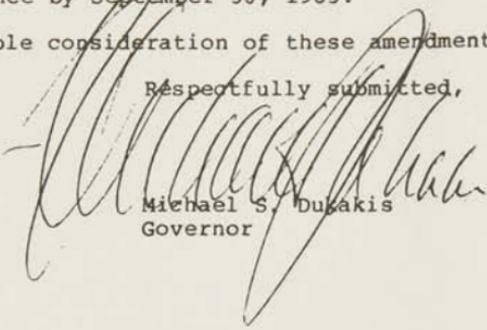
It is not possible for the department of mental health to establish a medium care facility within the 60 day deadline required by this section. The department should, however, develop a plan for establishing such a facility.

I therefore recommend that section 61 be amended by striking it in its entirety and inserting in place thereof the following:--

SECTION 61. The department of mental health shall develop a plan for establishing a medium security facility under its control. Said plan shall be submitted by the secretary of the executive office of human services to the secretary of administration and finance by September 30, 1985.

I urge your favorable consideration of these amendments.

Respectfully submitted,



Michael S. Dukakis
Governor

