

By Mr. Pacheco of Taunton, petition of Marc R. Pacheco and other members of the General Court for legislation to provide for continued services at public health, mental health and mental retardation facilities. State Administration.

The Commonwealth of Massachusetts

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

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.

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

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 or Mental Retardation
71 facility 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.

