

Dear Commissioners,

My name is Brian Flaherty, I am the director of development of Partners in Sex Education. I am writing with comments *Mandated Reporter Commission Report Seeking Public Comments*, and specifically want to address the issue brought out on Page 27, paragraph C, about specifically addressing underage consensual sexual relations/behavior.

Open, honest communication with youth is essential if we are to provide the education necessary to build healthy relationships, reduce dating violence, and stem the rising tide of sexually transmitted infections. And yet time and again we have been told by school administrators that we must begin our sex education lessons by informing students that if they disclose anything that suggests that they are sexually active, we are required to report them as victims of sexual abuse to the administration, who will turn this information over to DCF, and subsequently to the district attorney. You can imagine that education under such a looming threat does not foster open, honest communication. Sexually active students are reluctant to talk openly about risk reduction; students in coercive relationships are reluctant to open up about uncomfortable sexual pressure; students who have contracted sexually transmitted infections are reluctant to open up and ask about how to get tested. We are leaving our children in harms way; *the law designed to protect children is doing precisely the opposite.*

On page 27 of the report, you say that the proposal does not specifically address the reporting of underage consensual sex - that the reporter must evaluate the totality of the circumstances and that there is no bright line rule about reporting. However, Massachusetts's strict statutory rape law does not contain a close-in-age exception; it *does* draw a bright line rule. In Massachusetts, a child under 16 cannot consent to sex, full stop. You further point out that any report of underage sexual behavior must be reported to the district attorney. Please recognize that explicitly requiring that all underage sex be reported to the criminal prosecutor reinforces the impression that if a minor has sex they must tell no one about it, even if it is causing harm. This further limits the options of children in need: children in coercive or abusive relationships, children who fear sexually transmitted infections, and children who want to avoid unwanted pregnancy.

I strongly encourage you to avoid these harms by addressing underage non-consensual, *non-abusive*, sexual relationships in any update to the mandated reporter statute. The easiest and most welcome way to do this would be to add a close-in-age exception to MGL ch. 265 § 23, the statutory rape law. More than half of the states in the country have such an exception. Doing this would be an honest step towards improving the mandated reporter law, and keeping young people safe.

Sincere thanks for your consideration,

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