

LIST OF PROPOSALS FOR PUBLIC FEEDBACK AND INPUT

The Mandated Reporter Commission is responsible for presenting recommendations to the Massachusetts Legislature to update the mandatory reporter law – M.G.L. c. 119 § 51A-B. The following proposals have been presented for Commission review and the Commission is seeking public comment and feedback on these proposals prior to making any recommendations to the Legislature. The Commission is interested in the effects that the following proposals will have on the system of mandated reporting, mandated reporters themselves, and persons who may be subjects of child abuse and neglect reports.

The Commission will not be making any recommendations regarding the internal workings or processes of the Department of Children and Families and will not consider feedback or proposals that do not relate to the mandated reporting system in Massachusetts.

This document is a list of the proposals which have been presented for the Commission's consideration. If you are interested in additional details about the proposals listed below, you will find such information in the detailed proposal outline. Both of these documents are available on the MRC webpage: [Mandated Reporter Commission | Mass.gov](#)

The full text of the statutes referenced here are available at:

[General Law - Part I, Title XVII, Chapter 119, Section 21 \(malegislature.gov\)](#)

[General Law - Part I, Title XVII, Chapter 119, Section 51A \(malegislature.gov\)](#)

[General Law - Part I, Title XVII, Chapter 119, Section 51B \(malegislature.gov\)](#)

ALL WRITTEN PUBLIC INPUT AND COMMENTS ON THE PROPOSALS BELOW MUST BE SUBMITTED VIA EMAIL TO [INSERT EMAIL ADDRESS] BY [INSERT DATE]. All written comments must specifically reference the proposal number to which the comments refer.

The Mandated Reporter Commission will be holding public hearing sessions on the proposals listed below on the following dates: [insert dates]. The Commission strongly encourages that groups and organizations with comprehensive feedback submit such feedback in written format and that individuals who wish to share personal experiences with the Commission do so either in written format or in oral format. Oral testimony at public hearing sessions will be time limited. Anyone can sign up for an opportunity to present oral testimony at a public hearing session on the MRC website: [insert link]. Sign-ups officially close on [insert date].

PROPOSALS PRESENTED TO THE COMMISSION

Definition of Mandated Reporter

The current statutory definition of mandated reporter lists categories of persons who qualify as mandated reporters:

MGL c. 119 § 21: "Mandated reporter", a person who is: (i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family child care systems or child care food programs, licenser of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a district court, parole officer, social worker, foster parent, firefighter, police officer or animal control officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis; (v) in charge of a medical or other public or private institution, school or facility or that person's designated agent; or (vi) the child advocate.

1. The current statute does not set a minimum age requirement for mandated reporters. **Proposal 1** changes the definition of mandated reporter to specify that mandated reporters are persons who are 18 years old or older and who fall into one of the categories listed as mandated reporters in the statute.
2. The current statute does not address whether volunteers who fall into the categories listed in the statute are mandated reporters. **Proposal 2** changes the statute to specify that there is no legal distinction between volunteers and paid personnel- all persons who fall into one of the categories listed in the statute are mandated reporters regardless of whether or not they are being paid.
3. The current statute does not address whether contractors who are employed to fulfill the responsibilities of the categories listed in the current statute are also considered mandated reporters. **Proposal 3** clarifies that contractors who fulfill the functions of the categories listed in the statute would qualify as mandated reporters.
4. The current statute does not address whether persons who are providing remote services from out of state are considered mandated reporters. **Proposal 4** changes the statute to specify that a person who falls into the mandated reporter categories listed in the statute

is a mandated reporter if they provide any of the functions of their role for a child residing in the state or for a child physically in the state- this is true regardless of where the mandated reporter themselves resides or is physically present.

5. Medical personnel: **Proposal 5** changes the statute to expand mandated reporting responsibilities to any personnel at a licensed or unlicensed facility providing medical care, who are engaged in the admission, examination, care or treatment of persons.
6. Medical personnel: **Proposal 6** adds pharmacists to the list of mandated reporters.
7. Medical personnel: **Proposal 7** adds any persons who are licensed or certified to provide emergency or non-emergency medical care to the list of mandated reporters.
8. Mental Health personnel: **Proposal 8** expands the scope of mandated reporting responsibilities to any person licensed or certified to provide mental health services.
9. Mental Health personnel: **Proposal 9** adds psychoanalysts to the list of mandated reporters.
10. Mental Health personnel: **Proposal 10** replaces the term “drug and alcoholism counselor” with “substance abuse counselor.”
11. Mental Health personnel: **Proposal 11** adds psychiatric nurse to the list of mandated reporters.
12. Mental Health personnel: **Proposal 12** expands the scope of mandated reporting responsibilities to any intern, resident, student, or trainee who provides mental health services under supervision.
13. Education personnel: **Proposal 13** expands the scope of mandated reporting responsibilities to any school personnel who interact with any student in pre-kindergarten through twelfth grade during the school day, or on school premises, or through technology, or during any school sanctioned activity.
14. Education personnel **Proposal 14** adds school board members to the list of mandated reporters.
15. Education personnel: **Proposal 15** adds any personnel providing educational services funded by a public or private entity regardless of the service setting to the list of mandated reporters.
16. Education personnel: **Proposal 16** adds school bus drivers and bus monitors to the list of mandated reporters.
17. Education personnel: **Proposal 17** adds the person in charge of a school or facility or that person’s agent to the list of mandated reporters.
18. Education personnel: **Proposal 18** adds a new category of higher education personnel to the list of mandated reporters. This category would include higher education faculty and staff who interact with students in a teaching, coaching, or advising role. This category would include students who are employed as research fellows or teaching assistants. This category would include higher education administrators and officers. This category would include personnel of any organization or entity operating any program on higher education property. Mandated reporting responsibilities under MGL c. 119 § 51A would still only relate to child abuse and neglect and the addition of this category would not affect any responsibilities or lack of responsibilities regarding the abuse or neglect of persons who are eighteen years old or older.

19. Public Safety Officials: **Proposal 19** expands the scope of mandated reporting responsibilities to all court personnel, except for judges, who interact with children or youth, specifically adding assistant probation officers, family services officers, assistant clerk-magistrates, assistant registrars, judicial case managers, sworn law enforcement officials, special state police officers, correctional officers, sheriff deputies, and private security personnel to the list of mandated reporters.
20. Social Services providers: **Proposal 20** specifies that licensed and unlicensed child care providers including nannies and au pairs are mandated reporters.
21. Social Services providers: **Proposal 21** specifies that persons who provide in-home services to a child are mandated reporters.
22. Social Services providers: **Proposal 22** adds personnel of the Department of Public Health, the Department of Early Education and Care, the Department of Elementary and Secondary Education, the Department of Youth Services, the Department of Children and Families, the Department of Mental Health, the Department of Developmental Services, the Department of Transitional Assistance, the Department of Housing and Community Development, and the Office of the Child Advocate to the list of mandated reporters.
23. Social Services providers: **Proposal 23** adds shelter personnel of any shelter funded or partially-funded by the Commonwealth that provides assistance or programming to families to the list of mandated reporters.
24. Social Services providers: **Proposal 24** adds paid personnel who provide services within a home setting to the list of mandated reporters.
25. Social Services providers: **Proposal 25** adds information technologist, computer or electronics technicians, film or photo image processors to the list of mandated reporters.
26. Mentors: **Proposal 26** adds mentors as a new category of mandated reporter. This category includes any person providing mentorship through a paid or unpaid relationship with an organization or entity.
27. Mentors: **Proposal 27** seeks to exclude entities that provide direct confidential services to victims of domestic violence, sexual assault, or human trafficking from mandated reporting responsibilities under the category of “mentors.”
28. Clergy: **Proposal 28** seeks to expand mandated reporting responsibilities to any person who is performing official duties on behalf of a church or religious body.
29. Clergy: **Proposal 29** adds records custodians for any church or religious body to the list of mandated reporters.
30. Clergy: **Proposal 30** adds any person providing administrative services for any church or religious body to the list of mandated reporters.
31. Clergy: **Proposal 31** adds any person employed by a church or religious body to supervise, educate, coach, or train, or counsel an adult on a regular basis to the list of mandated reporters. Persons employed to supervised, educate, coach, train, or counsel children were already included in the statute.
32. Other Youth Serving Individuals: **Proposal 32** adds new categories of mandated reporters which include public library personnel, and personnel of any organization providing recreational activities or services to children (day camps, summer camps, youth programs, sports organizations, and scouting groups).

33. Persons on Legal Defense Teams: **Proposal 33** seeks to alter the statute to explicitly exclude any person retained by an attorney to work on a legal defense team from mandated reporting responsibilities for any information learned in the course of their work on the legal defense team. This proposal would apply to social workers or medical professionals working on legal defense teams.

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Definition of Child Abuse and Neglect and Other Definitions

The current statute requires that mandated reporters make a report to DCF when the following conditions are met:

MGL c. 119 § 51A: A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect; or (iv) being a sexually exploited child; or (v) being a human trafficking victim as defined by section 20M of chapter 233.

34. Physical or Emotional Injury: **Proposal 34** seeks to expand mandated reporting requirements to when mandated reporters, in their professional capacity, have a reasonable cause to believe that a child is suffering, or at substantial risk of suffering an injury to their physical, mental, or emotional health or condition.
35. Abuse: **Proposal 35** seeks to define the term “abuse” as it is used in the statute and specifically notes that abuse is a non-accidental action by a person.
36. Neglect: **Proposal 36** seeks to define the term “neglect” as it is used in the statute by defining it, in part, as the failure or refusal of another to provide minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care to ensure a child’s safety.
37. Neglect: **Proposal 37** seeks to define the term “neglect” in the statute in the manner indicated in proposal 36 with the alteration of one word: the failure or refusal of a caregiver to provide minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care to ensure a child’s safety.
38. Physical dependence on an addictive drug at birth: **Proposal 38** changes the language to more closely mirror the federal requirement that reports must be made when a child is born affected by substance abuse, experiences withdrawal symptoms from prenatal drug exposure, or affected by Fetal Alcohol Spectrum Disorder.
39. Physical dependence on an addictive drug at birth: **Proposal 39** seeks to create a dual track reporting system that permits the report of children who are born exposed to substances or experiencing withdrawal symptoms to the Department of Public Health or some other state entity when the mandated reporter has no concern for child abuse or neglect. This proposal would not change the requirement that mandated reporters report to DCF when they have concerns for child abuse or neglect at birth.
40. Reasonable cause to believe: **Proposal 40** seeks to add a definition of the standard of a “reasonable cause to believe” which is the standard that triggers a mandated reporter to make a report to DCF of allegations of child abuse and neglect.
41. Sexual Abuse: **Proposal 41** seeks to add a definition of sexual abuse to the statute. Such definition would define sexual abuse, in part, as non-accidental acts that could be physical, verbal, or written. Such a definition would explicitly exclude consensual communications between peers that does not involve coercion or exploitation.

Institutional Reporting

The current statute permits mandated reporters in certain institutional settings to transfer their responsibility to report to the person in charge of the institution or that person's designated agent:

MGL c. 119 § 51A: If a mandated reporter is a member of the staff of a medical or other public or private institution, school, or facility, the mandated reporter may instead notify the person or designated agent in charge of such institution, school or facility who shall become responsible for notifying the department in the manner required by this section.

42. Institutional Reporting: **Proposal 42** adds the requirement that each institution that permits institutional reporting have a written protocol describing the institutional reporting process.
43. Institutional Reporting: **Proposal 43** makes the institutional reporting process mandatory within institutions that utilize it, instead of permissive, unless the staff member has a reasonable fear of employer retaliation for filing or the person in charge of the institution or the designated agent is the alleged perpetrator of the child abuse and/or neglect being reported.
44. Institutional Reporting: **Proposal 44** clarifies that the person in charge or their designated agent must file any report from any staff member utilizing the institutional reporting process and cannot delay or refuse to file such a report. However, the person in charge or designated agent can add supplemental information to the report made to DCF.
45. Institutional Reporting: **Proposal 45** requires that the person in charge or their designated agent notify staff within 24 hours when the report to DCF has been filed pursuant to the institutional reporting process.
46. Notification of reports to state agencies: **Proposal 46** requires that DCF provide the Department of Elementary and Secondary Education, the Department of Early Education and Care, the Department of Mental Health, the Department of Developmental Services, the Department of Public Health, and the Department of Youth Services, whenever a report alleges that child abuse or neglect occurred at a facility owned, operated, or funded by one of these agencies or when the child abuse or neglect was allegedly committed by a person who was licensed by one of these state agencies. Currently the statute requires that all such agencies are notified only once reports are substantiated, not once a report is made. The Office of the Child Advocate would also receive notification of all of these reports.

Penalties in the Statute

The current statute includes penalties for mandated reporters who fail to adhere to the statute's requirements:

MGL c. 119 § 51A: Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 2 1/2 years and a fine of not more than \$2,000 for the third and subsequent offenses.

Any mandated reporter who has knowledge of child abuse or neglect that resulted in serious bodily injury to or death of a child and willfully fails to report such abuse or neglect shall be punished by a fine of up to \$5,000 or imprisonment in the house of correction for not more than 2 1/2 years or by both such fine and imprisonment; and, upon a guilty finding or a continuance without a finding, the court shall notify any appropriate professional licensing authority of the mandated reporter's violation of this paragraph.

MGL c. 119 § 51A: A mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the district attorney for the county in which the death occurred and the office of the chief medical examiner as required by clause (16) of section 3 of chapter 38. Any person who fails to file a report under this subsection shall be punished by a fine of not more than \$1,000.

47. **Proposal 47** changes the financial penalty for violating the mandatory reporter statute to a range between \$1,000 and \$10,000. The fine is currently set at \$1,000 maximum.
48. **Proposal 48** changes the financial penalty for knowingly filing a frivolous report to up to \$10,000 instead of the current fine set at up to \$2,000 for the first, second, and third offenses. This proposal makes no recommended changes to imprisonment penalties.
49. **Proposal 49** changes the financial penalty for willfully failing to report any child abuse or neglect that results in the serious bodily injury or death of a child to a range of between \$5,000 and \$50,000. The fine is currently set at a \$5,000 maximum.
50. **Proposal 50** requires notification to any professional licensing authority of a mandated reporter's failure to abide by the mandatory reporting statute if that reporter is licensed by that professional licensing authority. Individual professional licensing authorities would have discretion as to whether or not they will take any action based on the notification.
51. **Proposal 51** changes the financial penalty for failure to report a child's death to the District Attorney and the Office of the Chief Medical Examiner to a range between \$1,000 and \$10,000. The fine is currently set at \$1,000 maximum.

Protections in the Statute

The current statute includes several legal protections for mandated reporters including protection from employer retaliation for filing a report or participating in a child abuse or neglect investigation or legal case:

MGL c. 119 § 51A: No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and attorney's fees.

MGL c. 119 § 51B: No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, provides such information, testifies or is about to testify in any proceeding involving child abuse or neglect unless such person perpetrated or inflicted such abuse or neglect. Any employer who discharges, discriminates or retaliates against such a person shall be liable to such a person for treble damages, costs and attorney's fees.

52. **Proposal 52** expands legal protection from employer retaliation for filing a report or cooperating in an investigation or legal case to all persons who file reports of child abuse and neglect, not just mandated reporters who file reports of child abuse and neglect.

Mandatory Reporter Training

The current statute requires that certain mandated reporters be trained:

MGL c. 119 § 51A: A mandated reporter who is professionally licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect

53. **Proposal 53** requires that all mandated reporters, not just those who are licensed by the Commonwealth, be trained in mandated reporting within three months of engagement in the role or profession that qualifies them as a mandated reporter, and then every two years thereafter. This proposal would require that the trainee take the same general mandated reporter training every time the training requirement is due during the course of their career.
54. **Proposal 54** requires that all mandated reporters, not just those who are licensed by the Commonwealth, be trained in mandated reporting within three months of engagement in the role or profession that qualifies them as a mandated reporter, and then every two years thereafter. This proposal would require that the trainee take a general mandated reporter training the first time the training requirement is due, but also would permit the trainee to take approved profession specific and specialty specific trainings whenever the training requirement is due during the course of their career.
55. **Proposal 55** would require that any mandated reporter who is professionally licensed shall be required to comply with the mandated reporter training law as a prerequisite for renewing any professional license.
56. **Proposal 56** would require that volunteers who volunteer less than 35 hours per year in a role or profession that qualifies them as a mandated reporter be required to take a onetime short and general mandated reporter training.