To Whom It may Concern,

I am writing to voice concern over the following details of the mandated reporting law in Massachusetts:

- Infant dependency (51A - a)
    - Subsection a(iii) mandates reporting if an infant is “physical [dependent] upon an addictive drug at birth.” I am writing to voice concern over this subsection as written. Medication assisted addiction treatment is an evidenced based treatment method that is incredibly effective for those with substance use disorders. In including individuals with suboxone or any other drug assisting addiction treatment in their system, this treatment method is effectively being criminalized, but only for people who are carrying children. It also disincentivizes utilizing this treatment, which can increase the risk of relapse, and potential overdose posing higher risks. I would ask that this subsection be rewritten to exclude substances used in supporting addiction treatment. Furthermore, there is substantial evidence that criminalization of substance use does not deter further substance use. It can then be understood that using mandated reporting to address substance use is not an appropriate means of change.

Neglect (51A - a(ii))

- Subsection a(ii) dictates that “neglect” is something that individuals are mandated to report to DCF. In section 51A, there is no further explanation of what “neglect” is, apart from noting that it includes “malnutrition.” Leaving “neglect” open to interpretation and individual encourages individual mandated reporters to reflect on what they think constitutes “neglect.” This is problematic for various reasons. As we know from a 2019 data brief, there is a considerable problem with mandated reporting and implicit or explicit bias. It can be reasonably understood, then, that when a term like neglect is used and not specified, it creates optimal environment for racial profiling of families and guardians. Subsection a(ii) also does nothing to aid mandated reporters in understanding the difference between neglect and poverty. In 2019, it was estimated that 9.4% of Massachusetts residents were living in poverty. Due to the systemic and cyclical nature of poverty, as well as a history of racist social and economic policies, Black and Brown people in Massachusetts are proportionally more likely to be in poverty than are white people. This further increases the likelihood that Black and Brown families will be disproportionately targeted by subsection a(ii) of the MA mandated reporting law. If Massachusetts does not wish to criminalize poverty, the mandated reporting law should be very specific about what constitutes “neglect.” The negative effects of poverty and underfunded programs designed to address social determinants of health should not be considered neglect and result in punitive actions but instead should be met with funding and resources to address the needs deficit.

Addressing Bias (51A - k)

- As a 2019 data brief put it, “There is long-established acknowledgement of implicit bias in child welfare reporting; mandated reporters such as teachers and medical professionals, as well as the general public, may hold racial biases that

make them more likely to report a family of color than a white family under similar circumstances." Mandated reporting law must address this bias. At the very least, mandated reporting law should explicitly state that all mandated reporters undergo comprehensive implicit bias training to address bias in mandated reporting.

De-incentivise fear-based reporting (51A - c)

- Section 51A subsection c of the MA mandated reporting law describes repercussions possible for mandated reporters who do not file on evidence of child abuse or neglect. This includes potential fine, jail time, and loss of licensure. With little guidance beyond what is written in subsection c, this particular aspect of the mandated reporting law in MA creates a great deal of fear in mandated reporters. Fear of repercussion should not be the motivator in reporting; the only motivator for reporting should be serious concern for a child's wellbeing. Fear clouds judgement, and can result in overreporting and overloading an already overtaxed system with unnecessary reports. It also can result in knee-jerk responses, when a more appropriate approach would be to have a conversation with the family and learn more about what is happening. Undoubtedly, fear based reporting is likely to disproportionately affect Black and Latinx families in Massachusetts, especially in Immigrant and Refugee families, as well as indigenous families. De-incentivising reporting for the sake of reporting would hopefully create medical/school spaces that are safer for Families of Color.

Religion exception (51A - j)

- Subsection j of section 51A indicates that religious leaders are exempt from reporting information they would otherwise be compelled to report if that information was gathered in a confidential religious context, such as confession. The privileging of religion as a confidential space is especially troubling given the relative lack of training in support and exploration when compared to mental health professionals. Certainly it is important to keep children safe and protected. It is also important for space to exist for adults to work through their experience honestly. Mandated reporting in therapeutic spaces ensures that parents, especially Parents of Color, have to weigh the potential consequences of opening up to their therapist or counselor. Without this exemption for mental health providers, parents who are struggling may be unable to fully participate in treatment or may choose to forego treatment altogether. In essence, this is not solving a problem or concern, it is simply ensuring that those who may need help do not feel safe accessing it.

- Parental miranda rights (51B)
  - As mandated reporting is a form of policing in Massachusetts, it is vital that it be written into mandated reporting law that parents and guardians must have all of their rights communicated to them at the inception of any investigation. This must include what guardians are compelled to communicate, how information they give may be used, the right to refuse to answer questions, access to a lawyer, as well as explicit and information regarding petitioning any decisions or removals.
- The department's criteria for "reasonable cause to believe a child's health or safety is in immediate danger from abuse or neglect," which results in taking a child into immediate temporary custody, should be clearly outlined and as exhaustive as possible (51B - c).
  - The language used in subsection C of 51B leaves individual investigators to make decisions based on personal beliefs, values, assumptions and bias. Creating clear and consistent criteria for removal of children would support reducing the impact of implicit bias. The criteria for removal should take into consideration parents making efforts to protect their children from an abuser.

Removing children from a non-abusing parent due to the abuse of a partner/parent may be unnecessary and cause further harm to the children and the relationship with their primary caregiver. Legal action and removal should occur with the abuser but these steps should not be taken with the caregiver who has been abused and has made efforts to protect their children from abuse. The immediate removal of children from a parent due to that parent being abused criminalizes the individual who is a victim of domestic violence as opposed to criminalizing the abuser. Interventions that support children remaining with the non-abusive caregiver create less disruption and center on the family in need.

"Conditions" (51B - g)

- Subsection g of Section 51B states "The department shall offer appropriate services to the family of any child which it has reasonable cause to believe is suffering from any of the conditions described in the report to prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family life whenever possible." Written into subsection g should be explicit considerations for systemic conditions that this family experiences, including poverty, racism, access barriers due to citizenship status, and trauma. Also written into subsection g should be a specific mandate that these "conditions" be discussed collaboratively with mental health professionals and other supports, as opposed to dictated solely by an employee of DCF. As is, subsection g assumes that DCF workers to be the experts in family needs, which is neither accurate nor appropriate. Service plans should be designed to support the children and family address specific needs and should not become a barrier to reunification or closing DCF involvement when there are no-longer concerns of abuse or neglect. When items in the service plan are being mandated DCF should take into consideration access in the community and barriers to those services. DCF should provide access directly to services when possible via referral. Should any requirements in the service plan be inaccessible due to inadequate financial resources, childcare, transportation, or insurance coverage DCF should either provide assistance to remove these barriers or should remove the requirement from the service plan so as not to criminalize poverty.

Disconnection between personal experience and work experience (51B - l):

- If we understand that Families of Color are disproportionately targeted by mandating reporting, then we also understand that subsection l of section 51B disproportionately targets Parents of Color to potentially lose their job due to DCF involvement. Tying one's ability to parent according to DCF guidelines to one's ability to remain employed creates a double bind that perpetuates cycles of poverty.

Thank you for your consideration.

Sincerely,

Julie Nason, LICSW