

Mandated Reporter Commission

Review of Proposals after Public Comment Period Continued

May 20, 2021

DEFINITION OF MANDATED REPORTER

MRC statutory reference:

- Findings and recommendations on the scope of mandated reporter laws and regulations including, but not limited to, persons included in the mandated reporter definition;
- Proposals to expand mandated reporting requirements under sections 51A to 51F (inclusive);

There were many public submissions opposing expansion of the definition of mandated reporter, opposed some specific expansions of the definition of mandated reporter, and some that advocated, explicitly or implicitly, for a need to further curtail the definition of mandated reporter. The summary of these arguments are as follows:

- Anyone can make a report, expansion of the list is not required for people to report.
- Expansion of the list of mandated reporters will create an influx of unfounded reports which both hurt families, disproportionately hurt families of color and families in poverty, and will overburden DCF unnecessarily.
 - This is particularly true if the Commission were to increase the financial penalties for failure to report which will cause over-reporting out of fear by mandated reporters.
- Expanding the list of mandated reporters will have negative consequences mandated reporters act on their implicit biases- the joint/team decision-making process that some entities have when determining whether to make a report help to curtail such biases but such safeguards would not be in place when expanding the list of mandated reporters.
- The Commission has not indicated any reasoning to support expansion of mandated reporting responsibility.
- Mandated reporting is surveillance of families that has a far more detrimental effect on society and children than does the abuse or neglect that although real, is less common than is suggested by DCF over-involvement with families.
- Mandated reporters even now do not do a good job of reporting as is evidenced by the number cases that are screened-out.
- There will so many new filings, mostly unsupported and biased filings, based on this expansion that DCF will be so burdened current case practice will suffer. DCF would need significant additional resources to handle this burden.
- Mandated reporting has negative consequences for persons who are reported on including reputational and job-related consequences- expanding the list of mandated reporters who will act on their implicit biases and file unfounded reports will increase these negative consequences.

Commission work has operated on several premises. The first premise is that the initial drafting of the statute in 1973 which defined mandated reporters needed updating to reflect not only the current usage of terms as they relate to professions, but also to account for scenarios that are true today that may not have been true at the time the statute was drafted.¹ The second premise is that there are situations where child abuse or neglect may happen, or may be disclosed as happening, that are not currently captured in the statute. This is true for situations involving child athletics as well as in higher education. The third premise is that not all mandated reporters do report- though it is hard to quantify unknowable information. However, the OCA's work supports experiences of under-reporting in schools, childcare centers, congregate care settings, medical settings, shelter settings, and so on. The fourth premise is that there should be a common theme or themes underlying the reason why a certain profession or sub-group of people would be categorized as mandated reporters. Finally, the fifth premise is that the language used by the Commission to identify any changes to the definition of mandated reporter should strike a balance between using specific job titles so that persons know that they are included as mandated reporters, and keeping job titles wide enough that they will be applicable and flexible enough for future applications to unforeseen situations.

Common themes previously identified by the Commission:

- Persons who have access to children and who are often alone with children and/or responsible for their care;
- Persons in positions of authority or who children may identify as being in positions of authority;
- Persons who may be exposed to personal and detailed information about children and families;
- Persons who work in state agencies that provide services to children.

¹ Of note, the statute has been updated several times: Since 1989 the statute has been updated six times: in 1990 changes were made to MGL c. 119 §51A(a), in 1997 podiatrists were added to the list of mandated reporters, in 2002 some categories of religious personnel/clergy were added to the list of mandated reporters, in 2008 the definition of "mandated reporter" was moved from §51A to MGL c. 119 §21, in 2008 the definition of mandated reporter language changed from "family day care systems" to "family child care systems," and in 2018 animal control officers were added to the list of mandated reporters.

INTRODUCTION	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION
<p>“Mandated Reporter”, a person who is: a physician, medical intern . . .</p>	<p>“Mandated Reporter,” a person eighteen years old or older who is either a paid employee, or a volunteer, working in a profession or role listed herein, or any other person contracted by any entity to perform the functions of a profession or role listed herein, if such person resides in the Commonwealth or performs the functions of the profession or role listed herein for any person whose residence is in the Commonwealth or who is physically in the Commonwealth.</p> <p>The following subsection titles are for organization purposes only, a profession or role listed herein may fall under one or several subsection titles and non-inclusion under a subsection title has no legal effect on the obligations of mandated reporters.</p>

Discussed on May 7: Addition of a minimum age requirement of 18 year old

Discussed on May 7: Addition/Clarification of volunteers

Jurisdictional and Remote Issues:

Reasoning behind the proposal:

This proposal seeks to clarify that persons are mandated reporters for the purposes of Massachusetts law if they are providing services to persons in the Commonwealth or who reside in the Commonwealth. This is meant to account for out-of-state persons who provide remote services in the Commonwealth or travel to the Commonwealth to provide services even if they are employed out-of-state. Even though this proposal includes any person (who falls into the roles and professions listed in the statute) providing services to any other person in the Commonwealth, the obligation to report as a mandated reporter will still only arise if the person providing services believes, in their professional capacity, that there are concerns of child abuse or neglect that meet the standard of what is required to be reported to DCF. This proposal seeks to address the advances that technology has made in the past few decades including the current reliance on remote services, telehealth, and remote learning.

Public feedback specific to this section:

- No feedback appeared to be directly on point for this specific issue.
- Concerns already noted regarding the detriments to the expansion of the mandated reporter list would apply here. Also, there could be relevant concerns about persons out of state knowing that they are mandated reporters and whether they could or should be held to any expansion of training standards.

Contractual Obligations:

Reasoning behind the proposal:

This proposal explicitly states that any person who is contractually obligated to undertake the responsibilities of the role or profession of a mandated reporter will also be subject to mandated reporter obligations. A proposed definition of “contractor(s)” is elsewhere in the proposed statutory language. This is most relevant in situations where a state agency is contracting to have a service provided, such as a group or foster home run by a non-state entity, to children or for children in the Commonwealth. This proposal is based on an intention to tie the definition of mandated reporter to the actual connection between the reporter and the children and/or family, not the organizational structure of the role or profession. This proposal would also recommend that contract terms, specifically when services are contracted by state agencies, clarify the mandatory reporting obligations of contractors who may be unfamiliar with the law or may not be based in Massachusetts.

Public feedback specific to this section:

- No feedback appeared to be directly on point for this specific issue.
- Concerns already noted regarding the detriments to the expansion of the mandated reporter list would apply here. Also, there could be relevant concerns about persons out of state knowing that they are mandated reporters and whether they could or should be held to any expansion of training standards.

MEDICAL PROVIDERS	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION
(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...	(i): medical providers: a physician, medical student or trainee, personnel at any licensed or unlicensed facility providing medical care, who are engaged in the admission, examination, care or treatment of persons, medical examiner, pharmacist, psychologist, any person licensed or certified to provide emergency or non-emergency medical care including but not limited to: dentist, nurse, chiropractor, podiatrist, optometrist, osteopath

Settings and professionals providing medical care:

Reasoning behind the proposal:

The statute currently identifies physicians, medical interns, and hospital personnel as mandated reporters. The Commission notes that many people in the Commonwealth do not receive medical care solely in a hospital setting. Many professionals in the medical field who would be mandatory reporters if they worked in a hospital, are not mandatory reporters when performing the same role in another location. This proposal seeks to expand the scope of medical providers who qualify as mandated reporters beyond a hospital setting as the setting of medical care and treatment does not affect the information or insight a medical provider may learn during the course of such care or treatment.

The proposal is also meant to cover providers in unlicensed and licensed medical facilities as some urgent care facilities and other facilities are not required to be licensed under state law.

The proposal adds pharmacists to the list of mandated reporters and expands the scope of medical personnel to any person who is licensed to provide emergency or non-emergency medical care.

Public feedback specific to this section —*see specifically the submission by the Massachusetts Medical Society*:

- “Appreciate” that there is a need to expand the scope of medical providers who qualify as mandated reporters beyond a hospital setting, support for a robust approach to defining medical provider for purposes of the statute.
- Persons engaged in the admission to care or treatment expands the scope too far. Such persons are untrained in the recognition of abuse or neglect and the addition of such persons is not helpful as once past the admissions phase the child or family would encounter mandated reporters with more specialty in determining whether there is cause for concern.
- Osteopath is a physician and there is no need to separate them in the list in the definition.

MENTAL HEALTH PROVIDERS	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION
(i) ... allied mental health and human services professional licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker	(ii) mental health providers: any person licensed or certified to provide mental health services including but not limited to: allied mental health and human services professional licensed under section 165 of chapter 112, psychoanalyst, substance abuse counselor, psychiatrist, psychiatric nurse, social worker, any student or trainee providing mental health services under supervision

Reasoning behind the proposal:

This proposal includes psychoanalysts and psychiatric nurses in the list of mental health providers as these professionals are in the same type of provider-patient relationship and are privy to the same types of information pertinent to allegations of abuse and/or neglect as mental health providers that are currently covered by the reporting statute.

The proposal eliminates the word “clinical” from “clinical social worker” in an effort to capture all persons working as social workers as any social worker can provide mental health services (to varying degrees depending on their roles), not just those in a clinical or one-to-one relationship.

This proposal also includes the addition of any student or trainee who is providing mental health services to patients, to the list of mandatory reporters. Persons in these roles typically provide services one-on-one to clients without a supervisor being physically present during those sessions.

Public feedback specific to this section:

- “substance abuse counselor” should be “substance use disorder counselor”
- Adults should have therapeutic spaces where they can address their struggles openly and safely- this is especially true for persons of color.
- Support expressed for the inclusion of students and trainees.

EDUCATION PROVIDERS	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION
<p>(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 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</p>	<p>(a) early education: licensed childcare worker, person caring for or working with a child in any public or private facility, or home or program funded by the Commonwealth or licensed under chapter 15D</p> <p>(b) pre-kindergarten through twelfth grade: school board members, any school personnel who interact with any student, pre-kindergarten through twelfth grade in their professional capacity, including personnel at public schools, charter schools, private schools, vocational schools, recovery high schools, online school or courses, home tutoring, or any personnel providing educational services funded by a public or private entity regardless of the service setting, school bus drivers and bus monitors, school attendance officer, person in charge of a school or facility or that person’s designated agent</p> <p>(c) higher education: any and all higher education staff and faculty interacting with students in a teaching, coaching, or advising role, any student employed as a research fellow or teaching assistant, all higher education administrators and officers, personnel of any organization or entity operating any program on higher-education property under supervision</p>

Reasoning behind the proposals:

The current proposal before the Commission distinguishes roles and professions relating to pre-kindergarten to twelfth grade, and roles and professions relating to higher education. For pre-kindergarten to twelfth grade, the proposed language is based upon whether school personnel interact with students in a school-related capacity, regardless of why, how, or where that interaction takes place. This formulation is meant to focus on persons who are responsible for the care of children, who are in a position of authority over children, and who are likely to be exposed to personal and detailed information about children and their families; the focus is not

on the specific job titles in the field of education. For the same reasons, the proposal includes school bus drivers, bus monitors, and school board members.

Additionally, particularly in light of the current Covid-19 crisis and the non-traditional format that education has taken during the pandemic, the proposal includes language that will make clear that the mandated reporter requirement is based on the role or profession of the mandated reporter, not the setting in which educational services are provided.

The current definition of a mandated reporter does not include personnel working in higher education and this proposal would expand mandated reporting in that regard (noting particularly the recent Larry Nassar and Jerry Sandusky abuse cases). Many sports programs and other programs use higher education facilities for their operations and many young adults who are under eighteen years old attend college courses while still enrolled in high school, and some students are younger than eighteen when they matriculate to college.

Public feedback specific to this section:

- Children of color are deemed more “dangerous” in school than other children. Children of color are subject to inequitable application of school discipline, inequitable adult perceptions of children’s behavior, and there is differential treatment based on race and gender. These biases and structural racism in school is an example of how institutions affect families.
- False or unfounded reporting in schools can lead to law enforcement involvement with families which exacerbates the inequities of the system and can lead to long term negative results including a possible law enforcement record.
- Mandated reporting in school can break the relationship with the school and the parent thereby possibly damaging the child’s education.
- Support for all school personnel who interact with students in-person or remotely as it is important to include all people who regularly interact with children.

PUBLIC SAFETY OFFICIALS	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION
(iii) a probation officer, clerk-magistrate of a district court, parole officer...firefighter, police officer or animal control officer	(iv) public safety officials: court personnel, except for judges, interacting with children or youth including, but not limited to, a probation officer, assistant probation officer, family services officer, clerk-magistrate, assistant clerk-magistrate, assistant registrar, judicial case manager, parole officer, firefighter, police officers including campus and state police officers, sworn law enforcement officials, special state police officers, correctional officers, sheriff deputies or animal control officer, and private security personnel

Reasoning behind the proposal:

The proposal expands mandated reporting responsibilities to all court personnel interacting with children or youth in their professional capacities.

The proposal excludes judges from the list of mandated reporters. The Commission is specifically seeking input from the public on this proposed exclusion.

- Arguments in favor of exclusion note that if judges are mandated reporters they could be called in as witnesses on care and protection cases which can present complications in terms of impartiality considerations and statutory timeliness requirements. If a situation arises in which a judge reports concerns of child abuse/neglect to DCF on an issue that is currently before that judge, then questioning that judge about the concerns may open the judge up to questions about their judicial decision-making on a case which would be inappropriate. Arguments also include that judges must avoid even the appearance of not being impartial and a requirement of mandated reporting may prompt motions for recusal.
- Arguments against this exclusion would require that judges be required to report concerns of abuse or neglect because judges are as likely as other court personnel to observe or learn of abuse or neglect allegations. Arguments also include that judges are required to uphold the law and to do so in a capacity of a mandated reporter is well within their expertise and the expectation of their role. Arguments note that excluding judges from the list of mandated reporters sends the wrong message in terms of judges’ roles and that institutional reporting schemes can mitigate many concerns regarding the practicality of judges reporting.

The proposal includes private security personnel which would include those who are privately contracted for functions like school or athletic events. Members of the public, and particularly

children, are unlikely to be able to distinguish private security personnel from public safety officials in times of need or when/if disclosures are made.

Public feedback specific to this section- *see specifically the submission by CPCS:*

- This proposal is too broad and goes beyond the scope of persons who regularly interact or work with children.
- This would require those working in the courts to file on all the testimony they may hear in court which would be unnecessary.
- Sworn law enforcement officers includes undercover police and detectives as well as Department of Homeland Security officers, US Border Patrol agents, Immigration Inspectors and Customs Inspectors- there is no information as to whether these additions would further the safety of children- these are too broad.
- Private security personnel is also too broad as it will encompass bodyguards and persons who are responsible for security of private property- there is no reason to suggest that these persons would necessarily encounter children or youth in their work.
- There can be detrimental consequences for children and their futures when they are involved with law enforcement even if they are under the age of possible criminal responsibility.

SOCIAL SERVICES PROVIDERS	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION
<p>(ii) ...child care worker, person paid to care for or work with a child in any public or private facility, or home 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, licensor of the department of early education and care or school attendance officer</p> <p>(iii) ...social worker, foster parent...</p>	<p>(v) social services providers: unlicensed child care worker including a nanny or au pair, person caring for or working with a child in any public or private facility, or home or program funded by the Commonwealth or licensed under chapter 15D, person providing residential services to a child, person providing in-home services to a child, 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, the Office of the Child Advocate, personnel of any type of shelter funded or partially-funded by the Commonwealth,</p>

	<p>personnel of any community service program funded in whole or in part by the Commonwealth that provides assistance or programming to families, personnel paid by any person or entity to provide any service to a person within a home setting including day placements and residential placements, information technologist, computer or electronics technician, or film or photo image processor, social worker, foster parent</p>
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Reasoning behind the proposals:

While the current statutory language could be interpreted to apply to both licensed and unlicensed childcare providers, this proposal makes that application explicit. The childcare provider is in a caregiving role, has the same responsibilities, and has the same access to information when they are unlicensed as when they are licensed.

The proposal includes personnel of all major Commonwealth agencies that provide services to children with the understanding that they are responsible for providing services to children and families and have access to personal and often detailed information about children and the care of children. However, not all persons at these agencies have access to personal information in this manner as these agencies are large employers. One of the reasons that the attorney exclusion language was developed was due to the expansiveness of this proposal.

The proposal includes information technologists, computer or electronics technicians, and film or photo image processors. The proposal is intended to include persons who have access to intimate details of families’ lives and are one of the primary sources of reports of possession and exchange of child pornography. As in-home technology with the ability to record private information has become ubiquitous, the proposal seeks to identify persons who do, or in the future would, have access to such information. The Commission asked for specific input about the scope of this proposal in terms of the types of roles and professions that it would apply to and the possibility that those roles and professions would be privy to information relevant to mandated reporting responsibilities.

Public feedback specific to this section:

- The proposed additions are overbroad and unclear- examples given is “who is ‘a person providing residential services to a child?’ Does it include the owner of a short-term home rental when a family with a child stays there?” or “Who is a ‘person providing residential services to a child’? Does it include a family friend who shows a 16-year-old how to change the oil in a car?” (*CPCS submission*)

...person paid to care for or work with a child in any public or private facility, or home 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...	...person caring for or working with a child in any public or private facility, or home or program funded by the Commonwealth or licensed under chapter 15D, person providing residential services to a child, person providing in-home services to a child...
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- The aim of the proposal was to capture the broad range of services provided to children and families in their home by paid or unpaid persons. The type of services that were intended to be captured included: therapeutic services, medical services, family support services (for example through DMH referrals), behavioral services, and crisis intervention. Is there a common thread that ties these types of services together? Would it be more accurate to describe the category as any residential or in-home services provided by any entity that holds a contract with the Commonwealth?
- Suggestion that the proposal encompasses family babysitting or other ad hoc community babysitting arrangements. This would "...shackle any adult babysitter or informal caretaker within the community with a duty of surveillance and require them to file reports on the family. Not only would this erode the level of trust and community partnership inherent in these important relationships, it would also leave many families of limited financial means who use informal caretaking assistance without access to their normal support systems." (*CPCS submission*)
 - Appears to reference the term "unlicensed childcare worker including nanny or au pair." Would people who provide occasional babysitting would be considered a childcare worker? Would childcare collaboratives be considered childcare workers? Part of the consideration is that a person is being entrusted to be the sole caretaker for a child- when would mandated reporting responsibilities reasonably come into play in those scenarios?
- Nine states have some type of film or photo processor and at least two of those clarify that the obligation to report is when child pornography is observed. Many submissions indicated that "information technologist, computer or electronics technician, or film or photo image processor" should not be added as mandated reporters. How does this grouping of professionals match the principals the Commission has identified as who should be a mandated reporter? What knowledge or access to information do they have and what expertise do they bring?

PERSONS RETAINED BY AN ATTORNEY	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION

None	A person retained by an attorney to assist the attorney in his or her representation of an individual client or employed by a legal service provider to assist its attorneys in their representation of individual clients shall not be a mandated reporter for information learned about a reportable condition under M.G.L. c. 119 § 51A if that information is obtained in connection with his or her retention by the attorney or his or her employment by a legal service provider.
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Reasoning behind the proposal:

This proposal explicitly excludes persons who are working on legal defense teams from mandated reporting requirements for information they learn in their work on the legal defense team. This exclusion would apply to any person retained to work on a legal defense team, the most common example is that of social workers working on legal defense teams. The Commission has heard opposing testimony about whether social workers can abide by mandated reporter obligations without compromising their role on legal defense teams.

The holistic defense model integrates legal and non-legal services in an interdisciplinary model which seeks to address the circumstances that drive people into the criminal justice system; juveniles are better able to access their right to counsel when they feel safe and comfortable doing so and this is best accomplished by the holistic model of defense. One argument is that this proposed exclusion in the mandated reporter definition would recognize the already existing standard that the entire holistic defense team is covered by attorney-client privilege. An alternative view disagrees that attorney-client privilege is extended to all members of the legal defense team and that members of the legal defense team, particularly social workers, can provide meaningful benefit to the legal defense without sacrificing the moral and professional duty to report allegations of abuse and neglect.

Public feedback specific to this section:

- The “duty to warn” is a core principal of National Association of Social Workers Code of Ethics which states ““Social workers’ primary responsibility is to promote the well-being of clients...However, social workers’ responsibility to the larger society or specific legal obligations may on limited occasions supersede the loyalty owed to clients, and clients should be so advised.”” *See submission by the National Association of Social Workers, MA Chapter*
- This language is very broad and could provide exceptions for all types of providers such as physicians and psychologists.
- It is confusing when a person identifies as a social worker but changes legal obligations depending on who employs them.
- Psychologists hired in the capacity of experts still have a filing obligation, why wouldn’t a social worker?

- Your obligation should come from your role and your licensure and not who hires you.
- People in this section are working in the capacity of trusted adults- we let children down when they disclose information and we do not file to keep them safe.
- Social workers and other experts play a critical role in ensuring that all clients are provided with effective legal representation. Requiring mandated reporting of persons who are hired as experts by attorneys would undermine legal representation.

MENTORS	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION
None	(vi) mentors: person providing mentorship to any person through a paid or unpaid relationship with an organization or entity

Reasoning behind the proposal:

This proposal seeks to add persons providing paid or unpaid mentorship to the definition of mandated reporter due to the very intimate and trusting relationships between mentors and mentees which may result in the sharing of allegations of abuse and neglect, particularly when the mentee is a child. Currently mentors who are contracted by the Commonwealth can be held to mandated reporter obligations via those state contracts.

Public feedback specific to this section:

- This category is too broad for people to know whether they are being included as mandated reporters.
- This would damage the support system for children in and out of DCF care.

CLERGY	
CURRENT STATUTORY LANGUAGE	PROPOSAL TO THE COMMISSION

<p>(iv) a priest, rabbi, clergy member, 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</p>	<p>(vii) clergy: 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, records custodian for any church or religious body, person providing administrative services for any church or religious body, or person employed by a church or religious body to supervise, educate, coach, train, or counsel a child or adult on a regular basis</p>
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Reasoning behind the proposal:

This proposal is based on recent legal cases across the country that have tested other states’ statutes as they relate to the application of mandatory reporter laws to the clergy or otherwise religious roles and professions.

This proposal adds persons who perform the duties of clergy members even if they are not clergy members themselves, to the list of mandated reporters. It also adds records custodians for religious bodies as mandated reporters. The proposal expands mandated reporter responsibilities to those who supervise, educate, coach, train or counsel adults in addition to those who counsel children.

Of note, there appears to have been some confusion about this proposal. There is no proposal currently before the commission that would recommend changes to MGL c. 119 § 51A(j) which states in part “...a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner need not report information solely gained in a confession or similarly confidential communication in other religious faiths.” Commission discussion in the past has discussed the connection between religious confession and the First Amendment and that this provision appears to be narrowly tailored.

Public feedback specific to this section:

- Suggestion that the Commission revisit this language to be more inclusive of faiths beyond the church or religious body.
- Opposition to the “expansion” of mandated reporting responsibility to clergy as clergy function as a confidante for many people. This expansion will erode trust and compromise relationships that can be supportive.
- “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.” (*Multiple form submissions*)