

## **Recommendations for Mandated Reporter Law Reform in Massachusetts**

1. **Presumption of good faith** on the part of mandated reporters, even if their suspicions are unsubstantiated by the Department of Children and Families (DCF).
  - *“The bill (CAPTA P.L. 115-424) requires a presumption that the person acted in good faith.”*
  
2. **Protection of the identity** of the mandated reporter from disclosure to the general public and the alleged perpetrator.
  - ACYF Child Welfare Policy Manual April 4, 2021 *“The state must require a state child protection services worker (to act) ... in a manner consistent with laws that protect the rights of the person who made the allegation of abuse or neglect.”*
  - *The identity of the reporter is specifically protected from disclosure to the alleged perpetrator (held in strictest confidence) in 44 states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, and Puerto Rico.*
  - Massachusetts social worker Linda Silva, Vermont social worker Lara Sobel, and New Hampshire therapist Mark Rowland were killed by parents involved with state child protection services.

3. **Require all mandated reporters to make direct and immediate reports to DCF or law enforcement.**

- Under M.G.L. Chapter 119 Section 51A(a) staff in public and private schools, organizations and institutions can be required by their employer to follow an internal, chain of command reporting protocol.
- A recent review of MA civil court cases of child sexual abuse victims suing school districts, and cases of mandated reporters suing employers for retaliation, documents that for the past 30 years teachers, counselors, residential staff and social workers have been threatened and fired for filing 51As.
- 45 states and the District of Columbia and Puerto Rico have eliminated chain of command/institutional reporting, “*so no employer, supervisor, or administrator, governing body, or entity shall interfere with the reporting obligations of any employee, or in any manner discriminate or retaliate.*”

4. **Immunity for providing information and assistance including medical evaluations or professional consultations** to DCF or law enforcement in connection with a child maltreatment report, investigation or legal intervention (P.L. 115-424)

5. **Immunity for participating in an abuse or neglect judicial proceeding** including but not limited to testifying. (HHS-Children’s Bureau 2013 Report to Congress)

- MA law does not use the word “*judicial*” before proceedings.
- 36 states provided this immunity in 2013

**6. Provide mandated reporters with procedures (establish channels of communication) to coordinate and consult with DCF on child safety decisions**

- “*A state’s CPS must provide procedures for coordinating and consulting with those individuals (mandated professionals) on all cases of reported medical neglect*” (Child Welfare Policy Manual)
- The Mandated Reporter Commission includes only one frontline mandated reporter, a school resource officer, and does not include licensed professionals working with children. The Massachusetts Chapter of the National Association of Social Workers (NASW) and other organizations which advocate for child abuse prevention, were not asked to participate.
- Under MA court rulings and DCF policy, mandated reporters have only one way to communicate information about a child’s safety – to file a 51A alleging a child is in imminent harm of abuse or neglect.
- After the 51A is filed, mandated reporters receive minimal feedback from DCF. They do not know how, or if, DCF will address their concerns about a child’s safety.
- If a child is in DCF physical custody due to parental maltreatment (thus not in imminent harm), mandated reporters cannot file a 51A.

- CAPTA **Section 106(b)(2)(b)(vii)(ix)** requires “*disclosure of otherwise confidential information to any federal, state, or local entity that has a need for the information in order to carry out its responsibilities under law to protect children from abuse and neglect, so that disclosure is mandatory.*”
- Judges need access to critical information about a parent’s ability to adequately care for a child and about a child’s special needs, yet mandated professionals do not participate in custody proceedings unless they are subpoenaed to testify.
- A court appointed lawyer for a child may fail to represent a child’s best interests.
- The opinions and concerns of community providers are frequently dismissed or discounted in decisions made by DCF Area Offices.
- Professionals can be subject to licensing board adverse actions for speaking with DCF, based solely on a DCF involved parent’s claim of privilege. (Prioritizing an adult’s right to privacy over a child’s right to safety).
- Investigations into the deaths of 5-year-old Jeremiah Oliver, disabled teen David Almond, and the horrific abuse of 7-year-old Jack Loiselle document that:
  - In total, 30+ 51As were filed by community service providers, many of whom were licensed professionals.
  - They reported physical injuries, medical neglect, emotional and sexual abuse, harsh punishments, excessive school absences, and parental substance addiction and severe mental health problems.

- Numerous 51A reports by mandated reporters did not influence the decisions made by multiple DCF Area Offices and the courts to keep Jeremiah, Jack and David, in homes already proven to be unsafe.

7. **Expand the list of mandated reporters** to include all private and public athletic staff, contracted employees (when a state agency has contracted to have child services provided by a non-state entity), all medical providers, all mental health providers (including interns, residents, students and trainees), all school personnel who interact with students (in person or remotely), all police officers and probation officers, youth service providers, and persons who are employed by churches or religious bodies (not subject to sub paragraph (j) of M.G.L. Chapter 119 51(A).

- As the Commission has noted, it is important to include all people who regularly interact with children.

8. **Require criminal background checks** for all school personnel, residential staff, state and community child service providers, adoption and foster care agencies and caregivers and all adults living in high-risk homes of DCF involved children.

9. **A uniform statewide mandated reporting training curriculum.** This training should include the best practices for identifying and reporting to all types of child maltreatment. The training should clarify what specific actions

a mandated reporter is permitted or legally obligated to take to protect a child. A training program has been required by state law since 2010, but has not been developed.

10. **Provide a place within state government** which evaluates, files and investigates mandated reporters claims of employer retaliation. (The Commission is considering this recommendation. If Massachusetts does provide a state government complaint process as an alternative to expensive civil litigation, it would be a model for other states.)

## Signatures

The following child abuse prevention experts fully support these recommendations and formally endorse it with their signatures and affiliated organization:

- **Elizabeth Bartholet**

Morris Wasserstein Professor of Law, Harvard Faculty Director, Child Advocacy Program

- **Marci. A. Hamilton**

Founder and CEO, Child USA

- **Toby G. Kleinman, Esq.**

Adjunct Professor  
College of Psychology  
Nova Southeastern University  
Ft. Lauderdale, Florida

- **Ben Mathews**

Lead Investigator, Australian Child Maltreatment Study 2019-23  
Professor, Faculty of Law, Queensland University of Technology  
Adjunct Professor, Johns Hopkins University, Bloomberg School of Public Health

- **Jillian Ruck**

Executive Director, Child USA

- **Victor Vieth**

Chief Program Officer for Education and Research, Zero Abuse Project

### **Additional signatures**

- **Nancy Guardia, MSW**

Policy Analyst serving on the Child Maltreatment Reporting Laws Committee  
American Professional Society on the Abuse of Children (APSAC)

- **Frane Sippel, EdD**, Licensed Psychologist

Northern Plains Psychological Associates

- **Karyl Meister, Ph.D.**

Assistant Professor of Counselor Education  
Department Chair for Psychology/Counseling  
Northern State University

