

8 Massachusetts General Law, Protecting Children

If you need more in-depth information specific to Massachusetts law regarding the protection of children, the following sections of Massachusetts General Law are provided for assistance. Titles to the separate paragraphs of Sections 51A – 51F are provided to assist in the location of specific information.

MGL, Chapter 119, Sections 51A – F: Protection and Care of Children, and Proceedings Against Them

Section 51A: Injured Children; Reports; Privileged Communications; Penalties; Notice of Determinations

Mandated Reporters

Any physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator, guidance or family counselor, day care worker or any 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 pursuant to the provisions of Chapter 28A, which provides daycare or residential services to children, or which provides the services of childcare resource and referral agencies, voucher management agencies, family daycare systems and child care food programs, probation officer, clerk/magistrate of the district courts, parole officer, social worker, foster parent, firefighter or policeman, licensor of the office of child care services or any successor agency, school attendance officer, allied mental health and human services professional as licensed pursuant to the provisions of Section 165 of Chapter 112, drug and alcoholism counselor, psychiatrist, and clinical social worker, 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 priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner, or a person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis, who, in his professional capacity shall have reasonable cause to believe that a child under the age of eighteen years is suffering physical or emotional injury resulting from abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare including sexual abuse, or from neglect, including malnutrition, or who is determined to be physically dependent upon an addictive drug at birth, shall immediately report such condition to the department by oral communication and by making a written report within forty-eight hours after such oral communication; provided, however, that whenever such person so required to report is a member of the staff of a medical or other public or private institution, school or facility, he shall immediately either notify the Department or notify the person in charge of such institution, school or facility, or that person's designated agent, whereupon such person in charge or his said agent shall then become responsible to make the report in the manner required by this section. Any such hospital personnel preparing such report, may take, or cause to be taken, photographs of the areas of trauma visible on a child who is the subject of such report without the consent of the child's parents or guardians. All such photographs or copies thereof shall be sent to the Department together with such report. Any such person so required to make such oral and written reports who fails to do so shall be punished by a fine of not more than one thousand dollars. Any person who knowingly files a report of child abuse that is frivolous shall be punished by a fine of not more than one thousand dollars.

Child Abuse Hurts Communities

Information Contained in Reports

Said reports shall contain the names and addresses of the child and his parents or other person responsible for his care, if known; the child's age; the child's sex; the nature and extent of the child's injuries, abuse, maltreatment, or neglect, including any evidence of prior injuries, abuse, maltreatment, or neglect; the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; whatever action, if any, was taken to treat, shelter, or otherwise assist the child; the name of the person or persons making such report; and any other information which the person reporting believes might be helpful in establishing the cause of the injuries; the identity of the person or persons responsible therefore; and such other information as shall be required by the Department.

Death of a Child

Any person required to report under this section, who has reasonable cause to believe that a child has died as a result of any of the conditions listed in said paragraph shall report said death to the Department and to the District Attorney for the county in which such death occurred and to the Medical Examiners, as required by Section 6 of Chapter 38. Any such person, who fails to make such a report, shall be punished by a fine of not more than one thousand dollars.

Nonmandated Reporters and Immunity

In addition to those persons required to report pursuant to this section, any other person may make such a report if any such person has reasonable cause to believe that a child is suffering from or has died as a result of such abuse or neglect. No person so required to report shall be liable in any civil or criminal action by reason of such report. No other person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith; provided, however, that such person did not perpetrate or inflict said abuse or cause said neglect. Any person making such report who, in the determination of the Department or the District Attorney may have perpetrated or inflicted said abuse or cause said neglect, may be liable in a civil or criminal action.

Retaliation Against Reporters; Liability

No employer of those persons required to report pursuant to this section shall discharge, or in any manner discriminate or retaliate against, any person who in good faith makes such a report, testifies or is about to testify in any proceeding involving child abuse or neglect. Any such employer who discharges, discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees.

Notice to Mandated Reporters of DSS's Determination

Within sixty days of the receipt of a report by the Department, from any person required to report, the Department shall notify such person, in writing, of its determination of the nature, extent and cause or causes of the injuries to the child, and the social services that the Department intends to provide to the child or his family.

Privileged Communication

Any privilege established by Sections 135A and 135B of Chapter 112 or by Section 20A and 20B of Chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to the provisions of this section or the provisions of Section 24.

Notwithstanding section 20A of chapter 233, a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner shall report all cases of abuse under this section, but need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report a reasonable cause that a child is being injured as set forth in this section when the priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a reporter.