

This was the original document before May 2002.
You will find the new Act (Chapter 107) at the end of this report. ~ CrossCurrents Editor

General Laws Of Massachusetts
Part I.
Administration Of The Government.

Title XVII.
Public Welfare.

Chapter 119. Protection and Care of Children, And Proceedings Against Them.

Chapter 119: Section 51A. Injured children, reports.

Section 51A. 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, optometrist, 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 twenty-eight A, which provides day care or residential services to children or which provides the services of child care resource and referral agencies, voucher management agencies, family day care systems and child care food programs, probation officer, clerk/magistrate of the district courts, parole officer, social worker, foster parent, firefighter or policeman, office for children licenser, school attendance officer, allied mental health and human services professional as licensed pursuant to the provisions of section one hundred and sixty-five of chapter one hundred and twelve, drug and alcoholism counselor, psychiatrist, and clinical social worker, 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.

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 therefor; and such other information as shall be required by the department.

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 six of chapter thirty-eight. Any such person who fails to make such a report shall be punished by a fine of not more than one thousand dollars.

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.

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.

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.

Any privilege established by sections one hundred and thirty-five A and one hundred and thirty-five B of chapter one hundred and twelve or by section twenty B of chapter two hundred and thirty-three, relating to confidential communications shall not prohibit the

filing of a report pursuant to the provisions of this section or the provisions of section twenty-four.

As of May 2002:
Chapter 107 of the Acts of 2002

AN ACT REQUIRING CERTAIN RELIGIOUS OFFICIALS TO REPORT ABUSE OF CHILDREN.

Whereas , The deferred operation of this act would tend to defeat its purpose, which is forthwith to mandate the reporting of abuse by certain religious officials and to protect the victims of child abuse, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.<_□>

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 51A of chapter 119 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 13 and 14, the words "office for children licenser" and inserting in place thereof the following words:- licenser of the office of child care services or any successor agency.

SECTION 2. Said section 51A of said chapter 119, as so appearing, is hereby further amended by inserting after the word "worker", in line 17, the following words:- , 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, or 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.

SECTION 3. Said section 51A of said chapter 119, as so appearing, is hereby further amended by striking out, in line 86, the words "section twenty B" and inserting in place thereof the following words:- sections 20A and 20B.

SECTION 4. Said section 51A of said chapter 119, as so appearing, is hereby further amended by adding the following paragraph:-

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.

SECTION 5. Any individual mentioned in section 51A of chapter 119 of the General Laws, as amended by section 2 of this act, who was not previously subject to said section 51A and who on the effective date of this act has reasonable cause to believe that a child under the age of 18 years is or was being injured as set forth in section 51A, except if this belief is based solely on information exempt from reporting under section 4 of this act, shall make the reports required by said section 51A to the department of social services within 30 days after the effective date of this act. If on the effective date of this act, the alleged victim is no longer under the age of 18 years, the individual required by this section to report shall instead make a report to the office of the district attorney for the district where the alleged abuse occurred within 30 days after the effective date of this act and shall notify the alleged victim in writing of this report.

Reports required by this section shall be subject to the penalties provided in said section 51A.

Approved May 3, 2002.