AN ACT CONCERNING MANDATED REPORTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 17a-101 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2018):

(b) The following persons shall be mandated reporters: (1) Any physician or surgeon licensed under the provisions of chapter 370, (2) any resident physician or intern in any hospital in this state, whether or not so licensed, (3) any registered nurse, (4) any licensed practical nurse, (5) any medical examiner, (6) any dentist, (7) any dental hygienist, (8) any psychologist, (9) any school employee, as defined in section 53a-65, (10) any social worker, (11) any person who holds or is issued a coaching permit by the State Board of Education, is a coach of intramural or interscholastic athletics and is eighteen years of age or older, (12) any individual who is employed as a coach or director of youth athletics and is eighteen years of age or older, (13) any individual who is employed as a coach or director of a private youth sports organization, league or team and is eighteen years of age or older, (14) any paid administrator, faculty, staff, athletic director, athletic coach or athletic trainer employed by a public or private institution of higher education who is eighteen years of age or older, excluding student employees, (15) any police officer, (16) any juvenile
or adult probation officer, (17) any juvenile or adult parole officer, (18) any member of the clergy, (19) any pharmacist, (20) any physical therapist, (21) any optometrist, (22) any chiropractor, (23) any podiatrist, (24) any mental health professional, (25) any physician assistant, (26) any person who is a licensed or certified emergency medical services provider, (27) any person who is a licensed or certified alcohol and drug counselor, (28) any person who is a licensed marital and family therapist, (29) any person who is a sexual assault counselor or a domestic violence counselor, as defined in section 52-146k, (30) any person who is a licensed professional counselor, (31) any person who is a licensed foster parent, (32) any person paid to care for a child in any public or private facility, child care center, group child care home or family child care home licensed by the state, (33) any employee of the Department of Children and Families, (34) any employee of the Department of Public Health, (35) any employee of the Office of Early Childhood who is responsible for the licensing of child care centers, group child care homes, family child care homes or youth camps, (36) any paid youth camp director or assistant director, (37) the Child Advocate and any employee of the Office of the Child Advocate, [and] (38) any family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department, and (39) any person who is a licensed behavior analyst or board certified assistant behavior analyst.

Sec. 2. (NEW) (Effective October 1, 2018) (a) As used in this section and section 3 of this act:

(1) "Abuse" means the wilful infliction of physical pain, injury or mental anguish, or the wilful deprivation by a caregiver of services which are necessary to maintain the physical and mental health of a patient;

(2) "Behavioral health facility" means any facility operated by the Department of Mental Health and Addiction Services that provides mental health or substance use disorder services to persons eighteen years of age or older;
(3) "Patient" means any person receiving services from a behavioral health facility;

(4) "Legal representative" means a court-appointed fiduciary, including a guardian or conservator, or a person with power of attorney authorized to act on a patient's behalf; and

(5) "Mandatory reporter" means (A) any person in a behavioral health facility paid to provide direct care for a patient of such facility, and (B) any employee, contractor or consultant of such facility who is a licensed healthcare provider.

(b) Any mandatory reporter, who, in the ordinary course of such person's employment, has reasonable cause to suspect or believe that any patient (1) has been abused, (2) is in a condition that is the result of abuse, or (3) has had an injury that is at variance with the history given of such injury, shall, not later than seventy-two hours after such suspicion or belief arose, report such information or cause a report to be made in any reasonable manner to the Commissioner of Mental Health and Addiction Services or to the person or persons designated by the commissioner to receive such reports. Any behavioral health facility providing direct care for patients shall provide mandatory training on detecting potential abuse of patients to mandatory reporters and inform such individuals of their obligations under this section.

(c) Any mandatory reporter who fails to make a report under subsection (b) of this section or fails to make such report within the prescribed time period set forth in said subsection shall be fined not more than five hundred dollars, except if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of (1) a class C misdemeanor for the first violation, and (2) a class A misdemeanor for any subsequent violation.

(d) A report made under subsection (b) of this section shall contain the name and address of the behavioral health facility, the name of the
patient, information regarding the nature and extent of the abuse and any other information the mandatory reporter believes may be helpful in an investigation of the case and for the protection of the patient.

(e) Any other person having reasonable cause to believe that a patient is being or has been abused shall report such information in accordance with subsection (b) of this section in any reasonable manner to the Commissioner of Mental Health and Addiction Services, or to the person or persons designated by the commissioner to receive such reports, who shall inform the patient or such patient's legal representative of the services of the nonprofit entity designated by the Governor in accordance with section 46a-10b of the general statutes to serve as the Connecticut protection and advocacy system.

(f) A report filed under this section shall not be deemed a public record, and shall not be subject to the provisions of section 1-210 of the general statutes. Information derived from such report for which reasonable grounds are determined to exist after investigation, including the identity of the behavioral health facility, the number of complaints received, the number of complaints substantiated and the types of complaints, may be disclosed by the Commissioner of Mental Health and Addiction Services, except in no case shall the name of the patient be revealed, unless such person specifically requests such disclosure or unless a judicial proceeding results from such report. Notwithstanding the provisions of this section, not later than twenty-four hours or as soon as possible after receiving a report under this section, the commissioner or the commissioner's designee shall notify such person's legal representative, if any. Such notification shall not be required when the legal representative is suspected of perpetrating the abuse that is the subject of the report. The commissioner shall obtain the contact information for such legal representative from the behavioral health facility.

(g) (1) Subject to subdivision (2) of this subsection, any person who makes a report under this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from
any civil or criminal liability with regard to such report or testimony, except liability for perjury in the context of making such report.

(2) Any person who makes a report under this section is guilty of making a fraudulent or malicious report or providing false testimony when such person (A) wilfully makes a fraudulent or malicious report, (B) conspires with another person to make or cause to be made such fraudulent or malicious report, or (C) wilfully testifies falsely in any administrative or judicial proceeding arising from such report regarding the abuse of a patient. Making a fraudulent or malicious report or providing false testimony under this section is a class A misdemeanor.

(h) Any person who is discharged or in any manner discriminated or retaliated against for making, in good faith, a report under this section shall be entitled to all remedies available under law.

Sec. 3. (NEW) (Effective October 1, 2018) (a) The Commissioner of Mental Health and Addiction Services, upon receiving a report under section 2 of this act that a patient is being or has been abused, shall investigate the report to determine the condition of the patient and what action and services, if any, are required. The investigation shall include (1) an in-person visit to the named patient, (2) consultation with those individuals having knowledge of the facts surrounding the particular report, and (3) an interview with the patient, unless the patient refuses to consent to such interview. Upon completion of the investigation, the commissioner shall prepare written findings that shall include recommended actions. Not later than forty-five days after completion of the investigation, the commissioner shall disclose, in general terms, the result of the investigation to the person or persons who reported the suspected abuse, provided: (A) The person who made such report is legally mandated to make such report, (B) the information is not otherwise privileged or confidential under state or federal law, (C) the names of the witnesses or other persons interviewed are kept confidential, and (D) the names of the person or persons suspected to be responsible for the abuse are not disclosed.
unless such person or persons have been arrested as a result of the investigation.

(b) The Department of Mental Health and Addiction Services shall maintain a state-wide registry of the number of reports received under this section, the allegations contained in such reports and the outcomes of the investigations resulting from such reports.

(c) The patient's file, including, but not limited to, the original report and the investigation report shall not be deemed a public record or subject to the provisions of section 1-210 of the general statutes. The commissioner may disclose such file, in whole or in part, to an individual, agency, corporation or organization only with the written authorization of the patient, the patient's legal representative or as otherwise authorized under this section.

(d) Notwithstanding the provisions of subsection (c) of this section, the commissioner shall not disclose the name of a person who reported suspected abuse, except with such person's written permission or to a law enforcement official pursuant to a court order that specifically requires such disclosure.

(e) The patient or such patient's legal representative or attorney shall have the right of access to records made, maintained or kept on file by the department, in accordance with all applicable state and federal law, when such records pertain to or contain information or material concerning the patient, including, but not limited to, records concerning investigations, reports or medical, psychological or psychiatric examinations of the patient, except: (1) If protected health information was obtained by the department from someone other than a health care provider under the promise of confidentiality and the access requested would, with reasonable likelihood, reveal the source of the information; (2) information identifying the individual who reported the abuse of the person shall not be released unless, upon application made to the Superior Court by the patient or such patient's legal representative or attorney and served on the Commissioner of
Mental Health and Addiction Services, a judge determines, after in-camera inspection of relevant records and a hearing, that there is reasonable cause to believe the individual knowingly made a false report or that other interests of justice require such release; (3) if it is determined by a licensed health care provider that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person; (4) if the protected health information makes reference to another person, other than a health care provider, and the access requested would reveal protected health information about such other person; or (5) the request for access is made by the patient's legal representative, and a licensed health care provider has determined, in the exercise of professional judgment, that the provision of access to such legal representative is reasonably likely to cause harm to the patient or another person.

This act shall take effect as follows and shall amend the following sections:

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<thead>
<tr>
<th>Section</th>
<th>Date</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>1</td>
<td>July 1, 2018</td>
<td>17a-101(b)</td>
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<tr>
<td>2</td>
<td>October 1, 2018</td>
<td>New section</td>
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<tr>
<td>3</td>
<td>October 1, 2018</td>
<td>New section</td>
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**Statement of Legislative Commissioners:**
In Section 2(e), the phrase "or to the person or persons designated by the commissioner to receive such reports," was added for consistency with Section 2(b); and in Section 3(e)(2), the phrase "neglect or exploitation" was deleted for consistency with the other provisions in Sections 2 and 3.

*PH Joint Favorable Subst.*