

**Proposed Substitute
Bill No. 404**

LCO No. 3080

AN ACT CONCERNING MANDATED REPORTERS.

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

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2 to the general statutes is repealed and the following is substituted in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

4 (b) The following persons shall be mandated reporters: (1) Any
5 physician or surgeon licensed under the provisions of chapter 370, (2)
6 any resident physician or intern in any hospital in this state, whether
7 or not so licensed, (3) any registered nurse, (4) any licensed practical
8 nurse, (5) any medical examiner, (6) any dentist, (7) any dental
9 hygienist, (8) any psychologist, (9) any school employee, as defined in
10 section 53a-65, (10) any social worker, (11) any person who holds or is
11 issued a coaching permit by the State Board of Education, is a coach of
12 intramural or interscholastic athletics and is eighteen years of age or
13 older, (12) any individual who is employed as a coach or director of
14 youth athletics and is eighteen years of age or older, (13) any
15 individual who is employed as a coach or director of a private youth
16 sports organization, league or team and is eighteen years of age or
17 older, (14) any paid administrator, faculty, staff, athletic director,
18 athletic coach or athletic trainer employed by a public or private
19 institution of higher education who is eighteen years of age or older,
20 excluding student employees, (15) any police officer, (16) any juvenile
21 or adult probation officer, (17) any juvenile or adult parole officer, (18)
22 any member of the clergy, (19) any pharmacist, (20) any physical
23 therapist, (21) any optometrist, (22) any chiropractor, (23) any

24 podiatrist, (24) any mental health professional, (25) any physician
25 assistant, (26) any person who is a licensed or certified emergency
26 medical services provider, (27) any person who is a licensed or
27 certified alcohol and drug counselor, (28) any person who is a licensed
28 marital and family therapist, (29) any person who is a sexual assault
29 counselor or a domestic violence counselor, as defined in section 52-
30 146k, (30) any person who is a licensed professional counselor, (31) any
31 person who is a licensed foster parent, (32) any person paid to care for
32 a child in any public or private facility, child care center, group child
33 care home or family child care home licensed by the state, (33) any
34 employee of the Department of Children and Families, (34) any
35 employee of the Department of Public Health, (35) any employee of the
36 Office of Early Childhood who is responsible for the licensing of child
37 care centers, group child care homes, family child care homes or youth
38 camps, (36) any paid youth camp director or assistant director, (37) the
39 Child Advocate and any employee of the Office of the Child Advocate,
40 [and] (38) any family relations counselor, family relations counselor
41 trainee or family services supervisor employed by the Judicial
42 Department, and (39) any person who is a licensed behavior analyst or
43 board certified assistant behavior analyst.

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

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

50 (2) "Behavioral health facility" means any facility operated by the
51 Department of Mental Health and Addiction Services that provides
52 mental health or substance use disorder services to persons eighteen
53 years of age or older;

54 (3) "Patient" means any person receiving services from a behavioral
55 health facility;

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

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

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

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

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

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

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

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

119 (2) Any person who makes a report under this section is guilty of
120 making a fraudulent or malicious report or providing false testimony

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

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

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

152 (b) The Department of Mental Health and Addiction Services shall
153 maintain a state-wide registry of the number of reports received under

154 this section, the allegations contained in such reports and the outcomes
155 of the investigations resulting from such reports.

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

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

168 (e) The patient or such patient's legal representative or attorney
169 shall have the right of access to records made, maintained or kept on
170 file by the department, in accordance with all applicable state and
171 federal law, when such records pertain to or contain information or
172 material concerning the patient, including, but not limited to, records
173 concerning investigations, reports or medical, psychological or
174 psychiatric examinations of the patient, except: (1) If protected health
175 information was obtained by the department from someone other than
176 a health care provider under the promise of confidentiality and the
177 access requested would, with reasonable likelihood, reveal the source
178 of the information; (2) information identifying the individual who
179 reported the abuse, neglect, or exploitation of the person shall not be
180 released unless, upon application made to the Superior Court by the
181 patient or such patient's legal representative or attorney and served on
182 the Commissioner of Mental Health and Addiction Services, a judge
183 determines, after in camera inspection of relevant records and a
184 hearing, that there is reasonable cause to believe the individual
185 knowingly made a false report or that other interests of justice require
186 such release; (3) if it is determined by a licensed health care provider

187 that the access requested is reasonably likely to endanger the life or
188 physical safety of the patient or another person; (4) if the protected
189 health information makes reference to another person, other than a
190 health care provider, and the access requested would reveal protected
191 health information about such other person; or (5) the request for
192 access is made by the patient's legal representative, and a licensed
193 health care provider has determined, in the exercise of professional
194 judgment, that the provision of access to such legal representative is
195 reasonably likely to cause harm to the patient or another person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	17a-101(b)
Sec. 2	<i>October 1, 2018</i>	New section
Sec. 3	<i>October 1, 2018</i>	New section