



# 2022 LEGISLATIVE PROPOSAL

## INTRODUCTION

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Across the country, there is an ongoing conversation regarding whether mandatory reporting laws can effectively trigger intervention in cases of child abuse, while also helping families in need of preventive services. There is an acknowledgement that when mandatory reporting laws fail to do either of these effectively, families experiencing poverty and families of color are disproportionately impacted and represented in the child protection system.

In Colorado, mandatory reporters have and will continue to play a key role in the state's child protection system. However, Colorado's law is vague or silent in several areas that are crucial to ensuring mandatory reporters can consistently and confidently fulfill the charge asked of them. The law must be amended to ensure all mandatory reporters have equitable access to information and resources. Failure to create a clear infrastructure of support and training for mandatory reporters will proliferate impediments to child safety, overwhelm child welfare services and continue the disparate impacts on inadequately resourced communities and families of color.

On September 15, 2021, the Office of Colorado's Child Protection Ombudsman (CPO) issued a recommendation to strengthen and clarify the state's mandatory reporting law. That recommendation was made after a lengthy study of the law and in response to repeated inquiries from citizens, professionals and mandatory reporters themselves, seeking clarification regarding what the law requires of them. The CPO spoke with numerous mandatory reporters, including school administrators, teachers, school resource officers, law enforcement, county human service agencies and others whose job it is to report child abuse and neglect. That analysis revealed an inconsistent understanding of the law by mandatory reporters, a fragmented system of trainings for mandatory reporters and a general lack of support and resources for mandatory reporters. Specifically, the CPO identified five areas of the law that are ambiguous and should be addressed to provide better support and guidance for mandatory reporters. These areas are:

- The term "immediately" is not defined in law – resulting in ambiguity regarding how quickly a report must be made.
- The law does not address whether mandatory reporters are required to report incidents they encounter outside their professional capacities.
- There is no requirement that mandatory reporters be notified of their legal obligations or protections under the law.
- The law neither creates nor requires standard training for mandatory reporters.
- The law is silent regarding the role of institutions in making reports of suspected child abuse or neglect.

This document details each of the issues identified above and possible solutions. The CPO reviewed mandatory reporting laws across all 50 states to find examples of how these issues are addressed in other jurisdictions. While some of the cited provisions have been edited for brevity, citations are included for each example.

## **1. Colorado law is ambiguous regarding when a report of suspected child abuse or neglect must be made.**

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The law requires mandatory reporters to make a report of suspected child abuse or neglect “immediately” but does not define what immediate means.

### **Why It’s Important**

*Without a clear definition of what a timely report is, reports could be delayed.*

The CPO has reviewed several cases in which mandatory reporters have waited days before making a report – delaying because of work constraints or wanting to run a set of facts by a trusted colleague prior to reporting. Defining this term would give clarity to mandatory reporters and ensure that children/youth who may be in danger are having their needs met in a timely manner.

### **Potential Solutions**

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The CPO’s review of mandatory reporting laws in other states revealed that several states assign specific timelines for when a report must be made. Below are examples from three different jurisdictions:

- **Georgia**  
“... [A]n oral report by telephone or other oral communication or a written report by electronic submission or facsimile shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe that suspected abuse has occurred.” (See GA ST § 19-7-5(e)(2))  
\* See Iowa (I.C.A. § 232.69) and Vermont (VT ST T. 33 § 4913) for additional examples of 24-hour reporting requirements.
- **California**  
“The mandated reporters shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident.” (See CA Penal § 11166(a))
- **Texas**  
“If a professional has reasonable cause to believe that a child has been abused or neglected or may be abused or neglected or that a child is a victim of an offense ... and the professional has reasonable cause to believe that the child has been abused ... the professional shall make a report not later than the 48<sup>th</sup> hour after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense...” (See V.T.C.A., Family Code § 261.101(b))

## **2. Colorado law is silent regarding whether mandatory reporters are required to report incidents of suspected child abuse or neglect encountered outside their professional capacities.**

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Colorado law lists more than 40 types of professionals who are required to act as mandatory reporters. The law states that any of these professionals who have “...reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect shall” make a report.<sup>1</sup> However, the law does not state whether that duty extends to incidents mandatory reporters encounter outside of their professional work.

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<sup>1</sup> See C.R.S. § 19-3-304(1)(a)

## Why It's Important

***Without clear guidance regarding the scope of mandatory reporters' duty, individuals are confused about their responsibilities and reports of suspected abuse or neglect may be delayed or go unreported.***

The law must provide clarity regarding whether the professionals identified in the law are “always” mandatory reporters or if the duty exists solely within their professional capacities. Greater clarity will support mandatory reporters and ensure the law is working as intended.

## Potential Solutions

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Like Colorado, mandatory reporting laws in several states are silent regarding the scope of a mandatory reporter's responsibility. However, the CPO identified several states that provide clarity regarding the issue. Below are examples from three jurisdictions:

- **Maine**

“The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred:

A. When acting in a professional capacity:

[The law then lists 32 qualifying professionals.]” (See 22 M.R.S.A. § 4011A(1)(A))

- **New York**

“The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child...” (See Ny Soc Serv § 413(1)(a))

- **Pennsylvania**

“A mandated reporter enumerated in subsection (a) shall make a report of suspected child abuse ... if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

- (i) The mandated reporter comes into contact with the child in the course of unemployment, occupation and practice of a profession or through a regularly scheduled program, activity or service.
- (ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.
- (iii) A person makes specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.
- (iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.” (See 23 Pa.C.S.A. § 6311(b)(1))

### 3. Mandatory reporters are not informed of their legal obligations.

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Currently, there is no notification system to inform new mandatory reporters of their legal obligation to report suspected child abuse and neglect.

#### Why It's Important

**Many professionals are unaware of their obligations to report suspected child abuse or neglect.**

Professionals who are not part of a larger community of mandatory reporters, such as schoolteachers, physicians and social workers, may not receive notification of their responsibility to make reports. This may result in delayed or missed reports of suspected child abuse or neglect.

#### Potential Solutions

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Creation of a notification system will help ensure Colorado's 40 different categories of mandatory reporters – employed in the public and private sectors – are made aware of their obligations and rights under the law. The CPO identified three states – California, New York, and Iowa – that have engaged both government and business communities to educate mandatory reporters and notify them of their legal obligations. Under these laws, any person or institution that employs mandatory reporters are required to provide a written document that explains to new employees their mandatory reporting responsibilities, as well as the protections they have when they report child abuse and neglect. Below is language from each state's statute:

- **California**

"... [E]mployers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with [the mandatory reporting law] ..." (See CA Penal § 11165.7(c)(1))

"... [A]ny mandated reporter as specified in Section 11165.7, with the exception of child visitation monitors, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with these provisions. This statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations ... and of his or her confidentiality rights ... The employer shall provide a copy of [relevant sections of law] to the employee.

... The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court." (See CA Penal § 11166.5(a))

- **Iowa**

"A licensing board with authority over the license of a person required to make a report under subsection 1 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person's completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person engaged in active duty in military service of this state or of the United States, or to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is

otherwise subject to circumstances that would preclude the person from encountering child abuse in this state.

For persons required to make a report under subsection 1 who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.

For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.

h. For persons required to make a report under subsection 1 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection." (See I.C.A. § 232.69(3)(e) to I.C.A. § 232.69(3)(h))

- **New York**

"Any person, institution, school, facility, agency, organization, partnership or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section shall provide consistent with section four hundred twenty-one of this chapter, all such current and new employees with written information explaining the reporting requirements... The employers shall be responsible for the costs associated with printing and distributing the written information.

Any state or local governmental agency or authorized agency which issues a license, certificate or permit to an individual to operate a family day care home or group family day care home shall provide each person currently holding or seeking such a license, certificate or permit with written information explaining the reporting requirements..." (See Ny Soc Serv § 413(2) to Ny Soc Serv § 413(3))

#### **4. Colorado does not require training for its mandatory reporters.**

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Currently, Colorado law does not require training for any of its mandatory reporters, nor does it have a continuing education requirement for professionals who are routinely working with children/youth and are required to have a license to practice.

##### **Why It's Important**

***Requiring a minimal level of training is necessary to ensure that all mandatory reporters are knowledgeable about how to file a report.***

By failing to require any training for mandatory reporters, Colorado is not ensuring all mandatory reporters have equitable access to valuable information that will help inform them of how to appropriately respond to suspected child abuse and neglect.

Additionally, there is a great deal of discussion regarding how mandatory reporting laws disproportionately and unfairly impact disadvantaged families and communities of color. Requiring a training for mandatory reporters is crucial because it creates an opportunity to ensure reporters are aware of implicit bias and help them to identify signs of abuse and neglect. Such training will help mandatory reporters more confidently fulfill their obligations.

## Potential Solutions (Requiring a training for mandatory reporters.)

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There are at least 10 states that require mandatory reporters to complete training. The approaches vary widely across the country. For example, Iowa requires all its mandatory reporters take a two-hour training once every three years. Pennsylvania requires all its educators and health-related professionals, who require a state license to practice, to complete mandatory training. California takes yet another approach, requiring training for educators, school personnel, day care providers and employers who have five or more employees who are minors. Mandatory reporters may access all these trainings free of charge. Applicable provisions from each state are below:

- **California**

"[A human resource employee of a business that employs minors or adults whose duties require direct contact with and supervision of minors] shall provide their employees who are mandated reporters with training ... This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting...

... [S]chool districts, county offices, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf ... in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

... [A] childcare licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a childcare administrator or an employee of a licensed child daycare facility shall take training in the duties of mandated reporters during the first 90 days when that administrator or employee is employed by the facility.

... [A person] who becomes a licensee, administrator, or employee of a licensed child daycare facility shall take renewal mandated reporter training every two years following the date on which that person completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting." (See CA Penal § 11165.7(c) to CA Penal § 11165.7(e))

- **Iowa**

"A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within six months of initial employment or self-employment involving the examination, attending, counseling, or treatment of children on regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional child abuse identification and reporting training every three years. If the person completes at least one hour of additional child abuse identification and reporting training prior to the three-year expiration period, the person shall be deemed in compliance with the training requirements of this section for an additional three years." (See I.C.A. § 232.69(3)(b))

- **Pennsylvania**

"Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall:

- (i) Require all persons applying for a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least three hours of approved child abuse recognition and reporting training...
- (v) Require all persons applying for the renewal of a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least two hours of approved continuing education per licensure cycle..." (See 23 Pa.C.S.A. § 6383(b)(3))

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### **Potential Solutions (Developing cultural competency training for mandatory reporters.)**

New York law requires the Office of Children and Family Services to update training to include protocols to reduce implicit bias in filing reports of abuse and neglect. The applicable provision is below:

"The office of children and family services shall update training issued to persons and officials required to report cases of suspected child abuse or maltreatment to include protocols to reduce implicit bias in the decision-making processes, strategies for identifying adverse childhood experiences ... and guidelines to assist in recognizing signs of abuse or maltreatment while interacting virtually..." (See Ny Soc Serv § 413(5))

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### **5. Current law does not provide adequate guidance regarding institutions' roles in mandatory reporting.**

Institutional reporting refers to those situations in which the mandatory reporter is employed at an institution, such as a school or hospital, at the time abuse or neglect of a child is suspected. Many institutions have policies for handling reports, which may require or encourage employees who suspect child abuse or neglect to notify supervisors or the head of the institution of the abuse and the need to file a report – sometimes in lieu of making the report themselves.

Colorado law currently imposes the duty to report suspected child abuse or neglect on individuals who are listed in the statute. However, the law does not address how institutions, facilities and other large organizations, should report abuse or neglect.

#### **Why It's Important**

***Without clarity around institutions' roles in mandatory reporting, organizations cannot fully support staff required to report child abuse and neglect.***

The CPO has received dozens of calls from mandatory reports in large organizations who are unsure whether the law requires them to make a child abuse report themselves, or whether it is sufficient to notify their supervisor of their concerns. Many of these individuals stated their employers have policies that require them to bring child abuse concerns to an administrator who will then file a report. In these circumstances, it is unclear whether supervisors are substituting their judgement for that of their employees or whether they simply serve as a pass through for the information. As such, mandatory reporters in these situations are unclear if they have fulfilled their obligation and if the information they provided was relayed accurately, if at all. Clarifying the parameters of institutions' policies regarding mandatory reporting will provide needed support to institutions and their employees.

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#### **Potential Solutions**

During discussions with the CPO, organizations articulated several benefits for implementing internal policies regarding mandatory reporting. These include avoiding duplicate reports from an organization, ensuring that such reports are substantiated by facts and not personal bias and the desire to provide

their employees with support during the reporting process – including assistance with filling out paperwork and providing them time to make a report.

There are 32 states with laws that address institutional reporting.<sup>2</sup> Below are examples from three jurisdictions:

- **Tennessee**

“Nothing in this section shall be construed to prohibit any hospital, clinic, school, or other organization responsible for the care of children, from developing a specific procedure for internally tracking, reporting, or otherwise monitoring a report made by a member of the organization’s staff pursuant to this section, including requiring a member of the organization’s staff who makes a report to provide a copy of or notice concerning the report to the organization, so long as the procedure does not inhibit, interfere with, or otherwise affect the duty of a person to make a report ...” (See T.C.A § 37-1-403(h))

- **Pennsylvania**

“Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall report immediately ... and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification, the person in charge or the designated agent, if any, shall facilitate the cooperation of the institution, school, facility or agency with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is [prohibited]. This chapter does not require more than one report from any institution, school, facility or agency.” (See 23 Pa.C.S.A. § 6311(c))

- **California**

“The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided they are not inconsistent with this article. An internal policy shall not direct an employee to allow the employee’s supervisor to file or process a mandated report under any circumstances.

The internal procedures shall not require any employee required to make reports pursuant to this article to disclose the employee’s identity to the employer.

Reporting information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency ...” (See CA Penal § 11166(i))

## **FOR MORE INFORMATION**

**Tiffany Madrid**

Director of Legislative Affairs and Policy

Office of Colorado’s Child Protection Ombudsman

[tmadrid@coloradocpo.org](mailto:tmadrid@coloradocpo.org) | [Direct Line: \(720\) 625-8649](tel:(720)625-8649) • [Main Office: \(720\) 625-8640](tel:(720)625-8640)

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<sup>2</sup> Child Welfare Information Gateway, [Mandatory Reporters of Child Abuse and Neglect, 2019](#)