

By Mrs. Tucker of Andover, petition of Susan C. Tucker, Barbara Hildt and Eleanor Myerson relative to further regulating the reporting and investigation of certain cases of child abuse. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT FURTHER REGULATING THE REPORTING AND INVESTIGATION OF CERTAIN CASES OF CHILD ABUSE.

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

1 SECTION 1. Section 51A of chapter 119 of the General Laws,
2 as appearing in the 1986 Official Edition, is hereby amended by
3 inserting after the word "suffering", in line 13, the words: — or
4 may be suffering.

1 SECTION 2. Clause (1) of section 51B of said chapter 119, as
2 so appearing, is hereby amended by inserting after the fourth
3 sentence the following sentence: — If the department determines
4 that the assistance of a multi-disciplinary team, established
5 pursuant to the provisions of section fifty-one D, is necessary to
6 said investigation and evaluation of a report received under
7 section fifty-one A, the department may request the assistance of
8 said team.

1 SECTION 3. Said section 51B of said chapter 119, as so
2 appearing, is hereby further amended by striking out clause (2)
3 and inserting in place thereof the following clause: —

4 (2) evaluate the household of the child named in the report and
5 make a written determination of the risk of physical or emotional
6 injury to any other children in the same household. Such
7 evaluation or subsequent assessment shall indicate whether there
8 has been a history of alcohol or drug abuse and whether the child

9 or other children in the household have been the subject to
10 previous reports made under section fifty-one A.

1 SECTION 4. Said section 51B of said chapter 119, as so
2 appearing, is hereby amended by striking out clause (4) and
3 inserting in place thereof the following clause: —

4 (4) notify in writing the district attorney for the county in which
5 the abuse or neglect occurred, or if such county is not known,
6 the county in which the child resides or the appropriate federal
7 authority if the incident to be reported occurred on federal
8 property by transmitting to such district attorney or appropriate
9 federal authority a copy of the report required under section fifty-
10 one A and this section if, after an investigation and evaluation
11 undertaken pursuant to clause (1), the department has reasonable
12 cause to believe that any of the following conditions has resulted
13 from abuse or neglect:

14 (a) a child has died;

15 (b) a child has been sexually assaulted, as set forth in sections
16 thirteen B, thirteen H, twenty-two, twenty-two A, twenty-three,
17 twenty-four, and twenty-four B of chapter two hundred and sixty-
18 five or section thirty-five A of chapter two hundred and seventy-
19 two;

20 (c) a child has suffered brain damage, loss or substantial
21 impairment of a bodily function or organ, or substantial
22 disfigurement;

23 (d) a child has been sexually exploited, which shall mean
24 encouraging a child to engage in prostitution as defined in sections
25 four A and four B of chapter two hundred and seventy-two or
26 in the obscene or pornographic photographing, filming, or
27 depicting of a child as defined in section twenty-nine A of chapter
28 two hundred and seventy-two; or

29 (e) a child has suffered serious bodily injury as the result of
30 a pattern of repetitive actions by a family member.

31 The department shall within forty-five days after making such
32 notification further notify the district attorney or appropriate
33 federal authority of the service plan, if any, developed for such
34 child and his family. The department may further notify the
35 appropriate district attorney or appropriate federal authority of

36 other matters involving serious abuse or neglect of children. No
37 provision of chapter sixty-six A, section one hundred and thirty-
38 five of chapter one hundred and twelve, and section fifty-one E
39 and fifty-one F of this chapter relating to confidential data or
40 confidential communications shall prohibit the department from
41 (i) making any notifications pursuant to this clause or from
42 providing to the district attorney or appropriate federal authority
43 any information obtained pursuant to clause (1) or furnished
44 pursuant to this clause, or (ii) providing, at the request of a district
45 attorney or appropriate federal authority, any additional
46 information about any case for which notification has been made
47 pursuant to this clause. No person providing notification or
48 information to a district attorney or appropriate federal authority
49 pursuant to the provisions of this clause shall be liable in any civil
50 or criminal action by reason of such action. Nothing herein shall
51 be construed to limit the prosecutorial power of a district attorney
52 or appropriate federal authority.

1 SECTION 5. Said section 51B of said chapter 119, as so
2 appearing, is hereby further amended by striking out clause (8)
3 and inserting in place thereof the following clause: —

4 (8) promulgate regulations to implement the provisions of
5 sections fifty-one to fifty-one I, inclusive.

1 SECTION 6. Said chapter 119 is hereby further amended by
2 striking out section 51D, as so appearing, and inserting in place
3 thereof the following section: —

4 Section 51D. Each regional director of the department shall be
5 responsible for implementing the provisions of clause (4) of
6 section fifty-one B. Each such regional director shall report to the
7 appropriate district attorney cases as provided for in said clause
8 (4). Each area director shall assist the regional director in
9 implementing the provisions of this section.

10 Each regional director shall establish in cooperation with the
11 appropriate district attorney at least two permanent multi-
12 disciplinary teams. Such teams shall consist of one representative
13 of the department who shall be the caseworker for the particular
14 case and one member who shall be the investigative law enforcement

15 officer for the particular case. In the case of a reported abuse or
16 neglect alleged to have occurred at a facility subject to licensure
17 by the office for children under the provisions of section ten of
18 chapter twenty-eight A, a representative of the office for children
19 shall be a member of the team. Such teams shall additionally
20 consist of not less than five permanent members. At least one
21 permanent member shall be a physician preferably hospital-based
22 or nurse practitioner with expertise in child sexual or physical
23 abuse treatment methods; at least one permanent member shall
24 be a mental health professional with special clinical expertise and
25 experience in the evaluation and treatment of child sexual and
26 physical abuse; at least one permanent member shall be a mental
27 health professional employed by or under contract with the
28 department of mental health, serving the particular region; and
29 at least one permanent member shall have training and experience
30 in the field of child welfare or in the field of criminal justice.

31 Such teams shall, upon request of the regional director, assist
32 the department in conducting the investigation, evaluation or
33 assessment required by section fifty-one B. Such a team may
34 review the service plan developed by the department pursuant to
35 said section fifty-one B. When such team elects to review such
36 service plan, such team shall evaluate such service plan in regard
37 to its effectiveness in protecting the child from further abuse or
38 neglect and such team shall make recommendations regarding
39 amendments to the service plan. If such team reviews the service
40 plans and finds that the services required under such plan are not
41 actually provided to such family, the case shall be referred to the
42 appropriate office for children area office for assistance in
43 ensuring that the services recommended by the service plan are
44 provided. Said area offices may, in their discretion, further refer
45 such cases to the interagency children's services team established
46 pursuant to section six A of chapter twenty-eight A. The multi-
47 disciplinary teams shall also make recommendations regarding
48 the advisability of prosecuting members of the family, and the
49 possibility of utilizing diversionary alternatives.

50 Notwithstanding the provisions of chapter sixty-six A, section
51 one hundred and thirty-five of chapter one hundred and twelve,
52 and sections fifty-one E and fifty-one F of this chapter, (a) such

53 a multi-disciplinary service team shall have full access to such
54 service plan and any personal data known to the department
55 which relates to the implementation of such plan; and (b) when
56 the regional director requests such teams to assist the department
57 in conducting the investigation, evaluation or assessment required
58 by section fifty-one B, the team shall have full access to personal
59 data known to the department which related to such investigation,
60 evaluation or assessment. The multi-disciplinary team, may report
61 to such district attorney the information that the family has failed
62 to participate in or carry out the terms of such plan.

63 Each such regional director shall file a monthly report with the
64 commissioner of the department regarding the activities in the
65 region which have occurred in the previous month pursuant to
66 this section. Such report shall be written on a form prescribed by
67 said commissioner and shall include, but not be limited to, the
68 number of cases reported pursuant to clause (4) of said section
69 fifty-one B, the activities of the multi-disciplinary service teams,
70 the availability of services which are by such service plan, and after
71 obtaining the information from the appropriate district attorney,
72 shall reflect the number of family members that are the subject
73 of such reports that have been prosecuted. Said commissioner,
74 after deleting all personal identifying information, shall combine
75 these regional reports into one monthly report which shall be filed
76 with the secretary of human services, each district attorney, the
77 joint committee on human services and elderly affairs, and the
78 house and senate committees on ways and means.

1 SECTION 7. Section fifty-one G of said chapter one hundred
2 and nineteen is hereby repealed.

1 SECTION 8. Said chapter 119 is hereby further amended by
2 inserting after section 51G the following two sections: —

3 Section 51H. When a defendant in any criminal proceeding
4 seeks discovery of information contained in records maintained
5 by the department pursuant to this chapter, the defendant shall
6 subpoena the records from the department into court. The judge
7 shall hold an in-camera hearing and examine the records to
8 determine what information shall be released to the defendant.

9 The defense counsel or district attorney shall not be entitled to
10 examine or review said records, except those records released to
11 the defendant by the judge. A representative of the department
12 may be present at this hearing. The judge shall only order the
13 release of statements made by the defendant and any material
14 information. The judge's order shall be in writing and shall clearly
15 identify the information, if any, which shall be released to the
16 defendant. The department shall provide the district attorney with
17 a copy of any information released to the defendant pursuant to
18 such order. The provisions of clause (k) of section two of chapter
19 sixty-six A shall not apply to the department's response to a
20 subpoena for its records issued pursuant to this section, nor to
21 the release by the department of any information pursuant to an
22 order issued by a judge under this section.

23 Section 511. Notwithstanding any other provision of law to the
24 contrary the department may send to any other state and may
25 receive from any other state a protective alert or communication
26 containing any information about a child and his caretaker when
27 the child is the subject of a substantiated report of abuse or neglect
28 and the department has reason to believe the child has been
29 transported or will be transported into another state.

30 For purposes of this section, a "caretaker" shall mean a child's
31 parent, stepparent, guardian, any other household member
32 entrusted with the responsibility for a child's health or welfare and
33 any other person interested with the responsibility for a child's
34 health and welfare.

As the Director of a scientific institution of high character and
ranked in the world has indicated he wishes to be present at
the annual meeting of the American Academy of Arts and Sciences
at Cambridge and to deliver an address of his own.

BY THE UNIVERSITY of Massachusetts

Resolved, That the following be invited to attend the annual
meeting of the American Academy of Arts and Sciences at
Cambridge, Massachusetts, on the 27th of September, 1900.

That the following be invited to attend the annual meeting of the
American Academy of Arts and Sciences at Cambridge, Massachusetts,
on the 27th of September, 1900.

Resolved, That the following be invited to attend the annual
meeting of the American Academy of Arts and Sciences at Cambridge,
Massachusetts, on the 27th of September, 1900.

That the following be invited to attend the annual meeting of the
American Academy of Arts and Sciences at Cambridge, Massachusetts,
on the 27th of September, 1900.

Resolved, That the following be invited to attend the annual
meeting of the American Academy of Arts and Sciences at Cambridge,
Massachusetts, on the 27th of September, 1900.

Resolved, That the following be invited to attend the annual
meeting of the American Academy of Arts and Sciences at Cambridge,
Massachusetts, on the 27th of September, 1900.

Resolved, That the following be invited to attend the annual
meeting of the American Academy of Arts and Sciences at Cambridge,
Massachusetts, on the 27th of September, 1900.

1 The various annual or biennial reports shall not be required to
 2 contain or cover such matters, except their contents shall be
 3 subject to the discretion of the judge, a representative of the department
 4 may be present at such hearing. The judge shall may order the
 5 filing of documents made by the defendant and any material
 6 information. The judge's order shall be in writing and shall also
 7 specify the information, if any, which shall be retained as the
 8 permanent record. The department shall provide the legal necessary
 9 means of any information retained to the defendant pursuant to
 10 an order. The provisions of this act shall apply to the department's reports and
 11 reports for its reports except portions of this section, and to
 12 the extent by the department of any information retained as an
 13 order issued by a judge under this section.

14 Section 141. Whenever any other provision of law or the
 15 constitution of the department shall apply to any other state and any
 16 other laws shall apply to this act, the provisions of this act shall
 17 prevail over any other law which is in conflict with the provisions
 18 of this act. The provisions of this act shall apply to the department's
 19 reports and reports for its reports except portions of this section, and to
 20 the extent by the department of any information retained as an
 21 order issued by a judge under this section.

22 The provisions of this act shall apply to the department's reports
 23 and reports for its reports except portions of this section, and to
 24 the extent by the department of any information retained as an
 25 order issued by a judge under this section.