



Mandatory Reporting Task Force | Meeting 12

DRAFT TWO: Proposed Recommendation to Amend Mandatory Reporting Requirements, located at C.R.S. 19-3-304

Below is a draft of a possible recommendation by the Mandatory Reporting Task Force regarding amendments to Colorado's mandatory reporting requirements, located at C.R.S. 19-1-103. This text was drafted based on Task Force discussions and incorporates feedback to the first draft as discussed in the meeting on January 24th, 2024. The language below is not final, and members are encouraged to review the text carefully. The text includes draft suggested statutory language (as seen in blue font), but all recommendations from the Task Force will be subject to amendments, considerations, and changes from legislators if the recommendations are considered for adoption.

PROPOSED RECOMMENDATION

During its first year, the Mandatory Reporting Task Force discussed how Colorado's mandatory reporting law and system for making reports disproportionately impacts families of color, people with disabilities and under-resourced communities. The effects of this disparate impact perpetuate unnecessary contact with child protection services. Without clarification and guidance, Colorado's mandatory reporting law will continue to allow reporters to conflate several circumstances -- such as poverty -- with child abuse or neglect. This recommendation effectively creates a pathway for reporters to report circumstances that may not involve the safety or well-being of children.

Pursuant to C.R.S. 19-3-304.2(7)(a)(I), the Task Force is charged with analyzing techniques for mitigating such impacts of mandatory reporting. As such, the Task Force determined that narrowing the circumstances reporters are required to report -- to exclude circumstances that do not present concerns of neglect, physical or sexual abuse -- would help to decrease unnecessary contact with services. This may be done by specifying that certain circumstances, in isolation, do not meet the threshold for reporting. For example, when a family is experiencing poverty but does not present concerns about abuse or neglect, mandatory reporters would be instructed -- and trained -- not to report a case involving only socioeconomic status. Instead of making a report regarding child abuse and neglect in these instances, individuals and/or entities should consider how available services and resources may aid the child and/or family without prompting an investigation of child abuse and/or neglect.

To achieve this, the mandatory reporting task force recommends the Colorado General Assembly amend the mandatory reporting statute to exclude reports by mandatory reporters that are centered solely on characteristics that may suggest the effects of implicit bias. Such language may state:

19-3-304– Persons required to report child abuse or neglect

(1) (a) Except as otherwise provided by section 19-3-307, section 25-1-122 (4)(d), C.R.S., and paragraph (b) of this subsection (1), any person specified in subsection (2) of this section who has 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 immediately upon receiving such information report or cause a report to be made of such fact to the county department, the local law enforcement agency, or through the child abuse reporting hotline system as set forth in section 26-5-111, C.R.S.

(b) The reporting requirement described in paragraph (a) of this subsection (1) shall not apply if the person who is otherwise required to report does not:

(I) Learn of the suspected abuse or neglect until after the alleged victim of the suspected abuse or neglect is eighteen years of age or older; and

(II) Have reasonable cause to know or suspect that the perpetrator of the suspected abuse or neglect:

(A) Has subjected any other child currently under eighteen years of age to abuse or neglect or to circumstances or conditions that would likely result in abuse or neglect; or

(B) Is currently in a position of trust, as defined in section 18-3-401 (3.5), C.R.S., with regard to any child currently under eighteen years of age.

...

(c) No person described in subsection (2) of this section shall make a report solely due to a family/child’s race, class, or gender. In addition, the reporting requirement described in paragraph (a) of this subsection (1) shall not apply if the basis of the report arises from concerns solely due to any of the following criteria:

(I) Socioeconomic status, including inadequate housing, furnishings, income, and/or clothing.

(II) Disability status of the minor, parent, or guardian. “Disability” has the same meaning as set forth in the federal “Americans with Disabilities Act of 1990”, 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations

(d) If a circumstance does not meet the criteria put forth in paragraph (a) of subsection (1), of this section, persons described in subsection (2) of this section shall consider how alternative services and resources may aid the child or family.

(I) [INSERT FORTHCOMING LANGUAGE REGARDING ALTERNATIVE REPORTING METHODS]

(e) Any person specified in subsection (2) of this section shall receive training regarding:

(I) [INSERT FORTHCOMING LANGUAGE REGARDING TRAINING REQUIREMENTS FOR MANDATORY REPORTS, INCLUDING TRAINING REGARDING IMPLICIT BIAS AND REQUIREMENTS OF THIS SECTION]