

INCREASING MANDATORY REPORTING OF ALLEGED CHILD ABUSE AND NEGLECT WILL HURT CHILDREN

By Richard Wexler, NCCPR Executive Director, December 11, 2011

In the wake of the Penn State cases, there have been calls to increase the number of people required to report any suspicion of child abuse or neglect. Some proposals would make every American a mandated reporter. There are a series of problems with these proposals:

- More mandated reporting will further overload child protective services agencies. Even now, nearly four-fifths of reports don't meet the minimal standards required for CPS workers to "substantiate" them. That means caseworkers spend nearly four-fifths of their time spinning their wheels. (For full details and citations, see this NCCPR Issue Paper: <http://bit.ly/sY4Dvg>). More mandated reporting will leave these workers even less time to find children in real danger.

- Mandated reporters, afraid of the penalties for failure to report, will call in more cases that are patently absurd, like the recent case in Florida in which an assistant principal – a mandated reporter – called in a report about two 12-year-olds kissing. She said it was "a possible sex crime" - and sheriff's deputies investigated. Details are available here: <http://bit.ly/tiimfc>

- A child abuse investigation is, in itself, a significant trauma for a child – particularly when it involves the kind of "visual inspection" required in physical abuse cases and the kind of intrusive medical examination required in cases of sexual abuse. More mandated reporting will force thousands more children to endure this trauma needlessly. That's one of the reasons the Commissioner of the Connecticut Department of Children and Families, Justice Joette Katz, opposes making everyone a mandated reporter: <http://cour.at/sD0VQz>

- There is no evidence-base for mandated reporting. In all the decades since these laws passed in every state, there have been no studies of their effectiveness. As a result, in a 1998 report, available here: <http://bit.ly/ryXWk6>, the National Research Council recommended against expanding mandatory reporting to domestic violence. According to the NRC:

"Mandatory reporting requirements were adopted without evidence of their effectiveness; no reliable study has yet demonstrated their positive or negative effects on the health and well-being of children at risk of maltreatment, their parents and caregivers and service providers."

- Eighteen states already require everyone to report child abuse. There is no evidence that children in these states are safer than children in the others.

- The most widely-quoted statistic on the prevalence of child sexual abuse, often used to justify increased mandatory reporting, does not hold up to scrutiny. It's based on a definition of "abuse" so broad that it includes a 19-year-old kissing a 17-year-old goodnight after a date. Details and a link to the study are available here: <http://bit.ly/vchxSL>

- In a comprehensive scholarly critique, in a journal founded by Dr. C. Henry Kempe, the man credited with "re-discovering" child abuse nearly half a century ago, a leading scholar

MORE MANDATORY REPORTING WILL HURT CHILDREN/2

argues that the whole premise behind mandatory reporting was false, and it has, in fact, further endangered children: <http://bit.ly/st0JMn>

Many experts who once favored expanded mandatory reporting have changed their minds. For example, Prof. David Finkelhor of the University of New Hampshire Crimes Against Children Research Center used to be a big booster of mandatory reporting, here's what he told the Associated Press:

"Maybe it's better that people use discretion ... If everybody obeyed the letter of the law and reported a suspicion of abuse, the agencies would be completely overwhelmed with reports."

He's not alone. As far back as 1983, Dr. Eli Newberger of Children's Hospital in Boston; like Prof. Finkelhor, someone who once strongly supported ever-more mandated reporting, wrote that "had professionals, like me, known then what we know now, we would never have urged on Congress, federal and state officials broadened concepts of child abuse as the basis for reporting legislation."

Even Richard Gelles, Dean of the School of Social Policy and Practice at the University of Pennsylvania, someone who claims to be an author of the "Adoption and Safe Families Act," has gone on record in support of orphanages, and has suggested that only 20 to 30 percent of children taken from their parents ever should be returned home, says in this commentary that more mandated reporting is a mistake: <http://bit.ly/sU9a3s>

All this is why, in this editorial: <http://bsun.md/vuR5IP> *The Baltimore Sun* urged caution on adding tougher penalties to Maryland's reporting laws. According to the *Sun*:

The threat of prosecution could inundate authorities with a flood of spurious reports that overwhelm investigators and make it even more difficult to identify those children who are truly in danger. Given that two-thirds of abuse reports are ultimately found to be unsubstantiated, some child advocates argue that the last thing the system needs is for more people to report their suspicions just for the sake of making sure they are protected from criminal liability in case abuse is actually occurring.

Moreover, abuse investigations are inherently traumatic for children. They often involve hours of intensive questioning about sensitive issues of sexuality, shame and guilt as well as intrusive physical examinations that frighten and humiliate suspected victims. The stress brought on by such procedures can leave lasting emotional and psychological scars even on children who turn out not to have suffered abuse.

Similarly, in this editorial: <http://bit.ly/u2ae4w> the *Pittsburgh Post-Gazette* warns that:

There is danger in broadening the reporting requirements, according to experts in the child abuse field. They warn that a vast expansion of who must report and to whom could swamp the child welfare system, raising the prospect that substantiated allegations could be neglected as workers attempt to respond to more cases, and it could subject more children to the rigors of an investigation unnecessarily.

Additional resources: From the Family Defense Center, a full analysis of S. 1877: <http://bit.ly/vI29Wl> and 16 specific examples of the harm of false reports: <http://bit.ly/ulicG6>