



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 3

TO: MEMBERS OF THE SPECIAL COMMITTEE ON REPORTING OF CHILD ABUSE AND CHILD NEGLECT

FROM: David Moore, Staff Attorney

RE: State Laws Mandating That Every Person Report Child Abuse or Child Neglect

DATE: August 29, 2012

At the July 12, 2012 meeting of the Special Committee on Reporting of Child Abuse and Child Neglect, the committee asked for information about the child abuse reporting statutes in the two states, New Jersey and Wyoming, that do not designate members of certain professions as mandatory reporters of child abuse, but instead direct every person who knows of or suspects child abuse to report. This Memo provides that information. It also provides information about the statutes in states that both designate members of certain professions as mandatory reporters and also require any person who knows of or suspects abuse to report.

STATES THAT DO NOT DESIGNATE PROFESSIONAL REPORTERS

Forty-eight states designate professions whose members are required to report child abuse and child neglect. New Jersey and Wyoming are the exceptions.

New Jersey law provides as follows:

Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Child Protection and Permanency by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect

to the child abuse and the identity of the perpetrator. [N.J. Stat. s. 9:6-8.10].

If a person who has reasonable cause to believe a child has been abused but knowingly fails to report the abuse, he or she is a disorderly person under New Jersey law. [N.J. Stat. s. 9:6-8.14.] A disorderly person's offense is punishable by a fine not to exceed \$1,000, imprisonment for up to six months, or both. [N.J. Stat. ss. 2C:43-3 and 2C:43-8.]

Likewise, Wyoming law provides that:

Any person who knows or has reasonable cause to believe or suspect that a child has been abused or neglected or who observes any child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, shall immediately report it to the child protective agency or local law enforcement agency or cause a report to be made. [Wyo. Stat. s. 14-2-205 (a).]

Although the Wyoming law does not designate members of specific professions as mandatory reporters of child abuse or neglect, it does set out a procedure that certain professionals must follow. Paragraph (b) of the above statute addresses the obligations of staff members of certain organizations:

If a person reporting child abuse or neglect is a member of the staff of a medical or other public or private institution, school, facility or agency, he shall notify the person in charge or his designated agent as soon as possible, who is thereupon also responsible to make the report or cause the report to be made. Nothing in this subsection is intended to relieve individuals of their obligation to report on their own behalf unless a report has already been made or will be made.

Wyoming does not penalize the failure to report suspected child abuse or neglect. However, a person who knowingly and intentionally makes a false report of child abuse or neglect or who encourages or coerces another to make a false report is guilty of a misdemeanor punishable by imprisonment for up to six months, a fine of up to \$750, or both.

STATES THAT BOTH DESIGNATE PROFESSIONAL REPORTERS AND MANDATE UNIVERSAL REPORTING

Sixteen states require any person who suspects child abuse or neglect to report the suspected abuse, but also designate certain professions whose members are required to report.¹ In some of these states, the reporting requirements or procedures are different for professional reporters than they are for members of the general public. In others, the requirements and procedures are the same. At least one state provides for universal reporting only for certain types of abuse.

¹ These states are Delaware, Florida, Idaho, Indiana, Kentucky, Maryland, Mississippi, Nebraska, New Hampshire, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, and Utah.

Different Requirements or Procedure for Professional Reporters

Under the Maryland Family Code, “a person in this State other than a health practitioner, police officer, or educator or human service worker who has reason to believe that a child has been subjected to abuse or neglect” shall report the suspected abuse to the local department or the appropriate law enforcement agency. Health practitioners, police officers, educators, and human service workers must also report, but if the professional reporter is acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, he or she must also notify the head of the institution or the head of the institution’s designee. [Md. Code Ann., Fam. Law s. 5-704.] Indiana law is similar to Maryland’s in this respect.

North Carolina law likewise requires anyone who knows of or suspects child abuse to report. [N.C. Gen. Stat. s. 7B-301.] However, it also imposes specific related obligations on physicians. The statute that requires physicians in North Carolina to report certain types of wounds, injuries, and illnesses--regardless of the age of the patient--also requires physicians to report cases of recurrent illness or serious physical injury to a child that appear, in the physician’s professional judgment, to be the result of nonaccidental trauma. The procedure for reporting under this statute is different from the procedure for reporting under the child abuse reporting law. For example, unlike the child abuse reporting law, which requires that the report be made to the county social service department, the law directing physicians to report certain illnesses requires the report be made to law enforcement. [N.C. Gen. Stat. s. 90-21.20.] The statute specifies that the duties described in the physician reporting statute are in addition to those set forth in the child abuse reporting law

Rhode Island also imposes separate reporting requirements on physicians. Requirements specific to physicians include the obligation to notify law enforcement orally and to follow the oral notification with a report in writing. [R.I. Gen. Laws s. 40-11-6.]

In Tennessee, reporting requirements apply to certain professionals who learn that a child under the age of 13 has been infected with a venereal disease. [Tenn. Code Ann. s. 37-1-403.] Under Florida law, anyone who knows of or suspects child abuse or neglect must make a report to the Department of Children and Families’ abuse hotline; however, only members of certain professions are required to provide their names to the hotline. [Fla. Stat. ch. 39.201.]

Same Reporting Requirements for All Reporters

Some states’ reporting statutes specify professionals who are required to report and also require all other persons who know of or suspect abuse to report, but provide one procedure for reporting. One example of this type of law is the New Hampshire reporting statute:

Any physician, surgeon, county medical examiner, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having

reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter. [N.H. Rev. Stat. Ann. s. 169-C:29.]

Delaware, Idaho, Kentucky, Mississippi, Nebraska, New Mexico, Oklahoma, and Utah have similar laws.

Professional Reporters for Specific Types of Abuse

At least one state mandates different reporters depending on the type of child abuse suspected. West Virginia recently enacted legislation that requires every person over the age of 18 “who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child” to report the abuse or suspected abuse. [W. VA. Code s. 49-6A-2.] However, the West Virginia statutes do not mandate universal reporting for suspected physical abuse or neglect. With respect to physical abuse or neglect, the statutes instead designate members of certain professions that are required to report.

DM:jal