



## **Analysis: Mandatory reporting laws could harm children**

By Andrew Longstreth

December 1, 2011

(Reuters) - In the wake of child sex-abuse scandals at Penn State University and Syracuse University, states have jumped to toughen laws on who must report child abuse, sparking a debate about the effectiveness of such laws.

In addition to the two states directly affected by the scandals -- Pennsylvania and New York -- legislators and prosecutors across the country have announced the need for a more expansive definition of so-called mandated reporters, who are required to report suspicions of child abuse. In Missouri, Attorney General Chris Koster wants his state's legislature to make any individual who witnesses sexual abuse a mandated reporter. A California state lawmaker is planning to introduce a bill that would require college coaches to report suspected abuse to authorities. Officials in Connecticut, Virginia, and Georgia are also reviewing their reporting laws.

"We need to make sure that a situation like what occurred at Penn State does not happen in New York," New York Assemblyman Jim Tedisco said in a statement. He plans to introduce legislation in January.

Currently, 18 states require everyone to report child abuse. The other states require varying categories of people who come into contact with children in a professional capacity to do so. In New York, for example, the list of mandated reporters includes teachers, officials, doctors, social workers, and police officers.

But many child welfare experts say that expanding the pool of mandated reporters could end up harming children rather than helping them. For one thing, child welfare investigators may become overwhelmed with specious reports. The time spent on those cases could take away from time investigating real cases of abuse, they say.

"You'd have to employ an awful lot more case workers to deal with all these reports," said Theo Liebmann, who directs the Hofstra Child Advocacy Clinic. "You'd get some crazy stuff."

There is no statistical evidence that states with more expansive mandatory reporting laws protect children better than those with more restrictive definitions, experts say. In 1998, the lack of evidence about the effectiveness of mandatory reporting prompted the National Research Council to recommend not extending mandatory reporting laws to include cases of domestic violence.

What's more, some are concerned that more investigations could end up traumatizing children for no reason. In a November 27 opinion piece for the Hartford Courant, Joette Katz, the commissioner of Connecticut's Department of Children and Families and a former justice of the state Supreme Court, said she was against requiring that everyone be a mandated reporter.

"I worry about the children, some of whom will be traumatized by being needlessly subjected to forensic interviews and invasive medical procedures -- a form of child abuse in and of itself," wrote Katz.

## IN COURT, HIGH REVERSAL RATE

Suspected child abuse is often first reported to state child welfare authorities. After an investigation, they can base a finding against a suspect on substantially less evidence than would be needed for a criminal conviction. Critics of the system say it is vulnerable to false accusations, which would only increase if more people were required to report their suspicions.

In a case filed in the late 1990s challenging Illinois Department of Children and Family Services' child abuse investigations, the alleged perpetrators found that when cases of child abuse were contested in court, the reversal rate was around 75 percent.

The goal should be to increase accuracy, not simply increase the number of reports, said Bruce Boyer, director of the Loyola Civitas ChildLaw Clinic. "It's better if you can get people to make good choices rather than force people into the same legislative box," said Boyer.

In the child rape case against former assistant Penn State football coach Jerry Sandusky, which Sandusky denies, prosecutors charged two individuals with failing to report suspected sex abuse: athletic director Timothy Curley and university finance official Gary Schultz.

Questions have been raised why others who knew about the allegations against Sandusky were not charged as well, including Penn State football coach Joe Paterno. Under Pennsylvania law, Paterno satisfied his legal obligation by telling his supervisor when he heard of an incident in 2002, according to Pennsylvania Attorney General Linda Kelly.

It is unclear whether New York's reporting law will come into play in the Syracuse case, which concerns allegations that former assistant basketball coach Bernie Fine sexually molested boys over several years.

Fine was fired by the university Sunday evening after ESPN aired an audio recording that it said was a 2002 conversation between Fine's wife, Laurie, and one of Fine's alleged victims, Bobby Davis. In the recording, ESPN reported that Laurie acknowledged that she suspected her husband had sexually molested Davis in her home but said she felt helpless to do anything about it.

Fine, who has not been formally charged, has called the accusations against him "patently false in every aspect."

Even if Fine is charged, Laurie Fine would not be subject to the reporting requirements under New York law, according to experts.

Martin Guggenheim, a professor at New York University School of Law who specializes in child welfare, said that it's OK to wish that Laurie Fine had alerted the authorities about her suspicions. But he said that lawmakers should resist taking legislative action based on a recent celebrated case.

"That's the worst possible way to enact laws and make public policy," he said. "But politicians don't care about their legacy. They care about their immediate rewards."