

An Analysis of State Laws Regarding Mandated Reporting of Child Maltreatment



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Many states have been examining their child maltreatment reporting statutes and assessing ways to strengthen mandated reporting laws. In particular, several states are debating legislation to create a universal mandated reporting system in which all citizens are required to report suspected child abuse and neglect. Pennsylvania Partnerships for Children approached SPARC to conduct an analysis of universal versus non-universal reporting statutes and the implications of those statutes. These findings have been given to the Pennsylvania Task Force on Child Protection, which is conducting a comprehensive review of the state's child protection system.

Currently 18 states and Puerto Rico have universal mandated reporting laws in place,¹ prompting others to consider whether or not this system increases the likelihood that child maltreatment will be reported. See [Figure 1](#) for a map of states with universal mandated reporting laws. So far during the 2012 legislative session, lawmakers in 30 states and the District of Columbia have introduced legislation to amend their states' reporting laws. Ten of these states have enacted such legislation.² While none have so far shifted from a non-universal to a universal mandated reporting system, the enacted legislation includes measures that increase the penalty for failure to report abuse and neglect, add certain professional groups to the list of mandated reporters, increase protections for reporters of child maltreatment, and improve educational and training materials on child maltreatment.

This issue brief provides an overview of how different states have approached universal mandated reporting policies, some considerations for reporting statutes in general, and various themes from interviews SPARC conducted with state administrators. While it does not explore every issue a state should consider in discussions about whether to move towards a universal mandated reporting policy, it may provide a starting point for states moving in this direction.

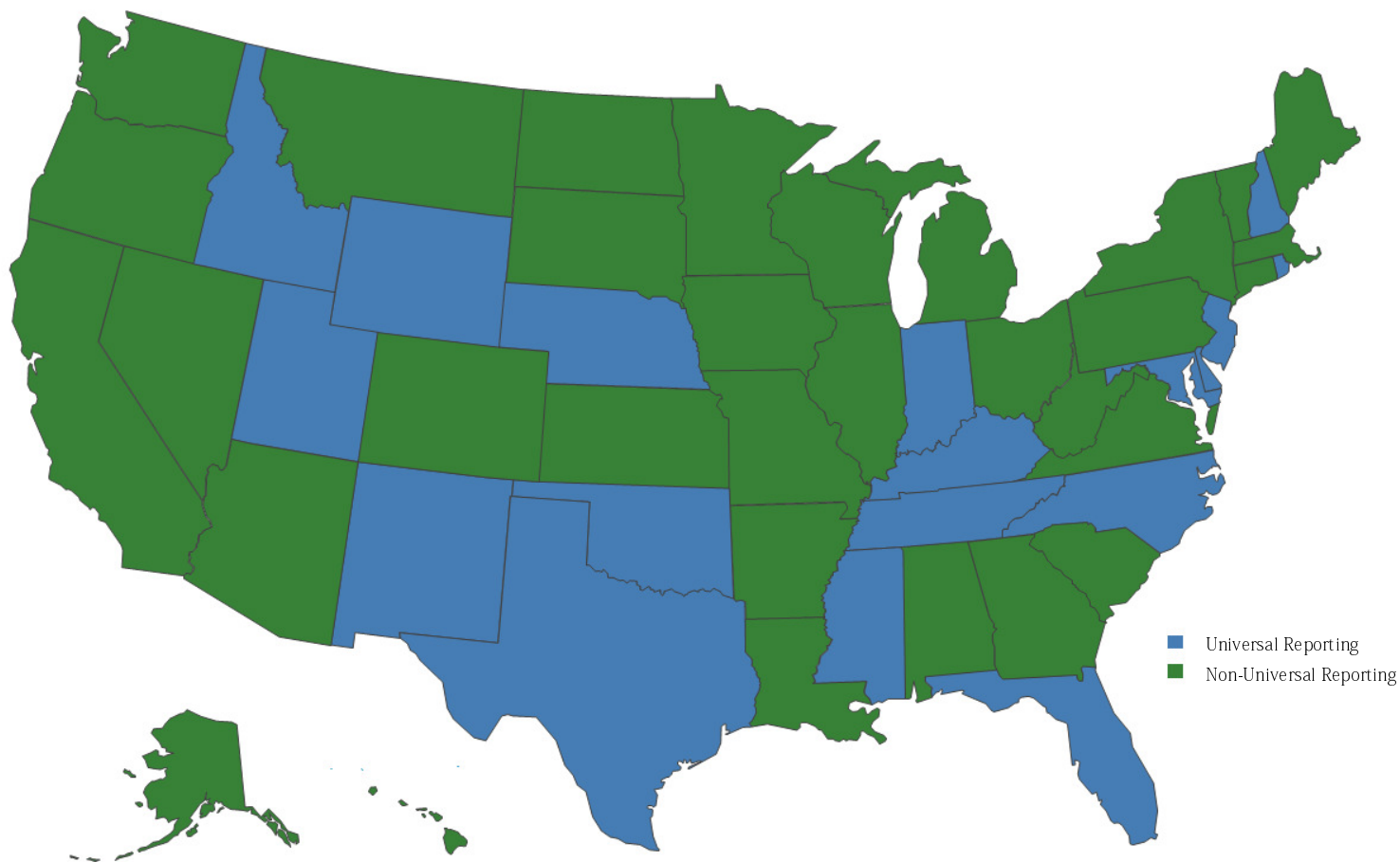


Figure 1.

Child Maltreatment: Comparative Data Analysis

SPARC conducted a comparative analysis to determine whether or not states with universal mandated reporting have higher reporting rates and/or higher substantiation rates. The common concern among some advocates and policy makers is that reporting under a universal mandatory system will be higher, but that it will not lead to better reporting of child abuse and neglect. In other words, a higher call volume does not necessarily lead to a higher rate of detection of the actual occurrence of maltreatment.

To identify the association of universal reporting with the rates of reports and substantiated reports, we collected maltreatment rates from the *Child Maltreatment 2010* report for the categories of sexual abuse, abuse, neglect, and medical neglect, as well as rates of total maltreatment and unique victims. The table in **Appendix A** (available for download at: <http://childwelfareparc.com/appendix-a/>) compares rates of reporting, substantiation, and maltreatment types between states with universal mandated reporting laws and states with

non-universal mandated reporting laws. While it is difficult to draw too many conclusions using one year of data, two major findings stand out:

First, rates of reporting were no higher in states with universal mandated reporting laws. Universal mandated reporting laws do not seem to be associated with the rates of calls coming into states' hotlines.

Second, rates of substantiation were higher in states with universal mandated reporting laws. It is unclear if the higher substantiation rates were a function of professional reporting or reporting from the general community.

There seems to be very little difference between universal and non-universal states on other indicators we examined (i.e., rate of unique victims, rate of total maltreatment, and rates of the various maltreatment types). Of course, there may be many additional factors at play in these trends and states vary considerably in how they define these different categories. Additionally, this analysis only includes one year of data from the states. Future research could compare these rates across several years and control for possible confounding variables, such as whether states have differential response systems in place, how states define abuse and neglect, and state poverty rates, among others.

What State Administrators Say About Universal Mandated Reporting

SPARC also conducted interviews with administrators in eight states with universal mandated reporting laws: Delaware, Illinois, New Hampshire, New Jersey, Nebraska, North Carolina, Texas, and Utah. Interviews were only conducted with administrators in states with universal policies to explore some of the nuances of how these policies work in practice. Several themes emerged from these interviews.

All administrators we interviewed reported that their states' universal mandated reporting policies had been in place for as long as anyone present at their agencies could remember. Most administrators guessed that the laws had been in place since the 1970s.

With the exception of one state, whose administrators indicated that they were seriously reconsidering their universal mandated reporting policy, all administrators interviewed said they believe that universal mandated reporting is a good policy. They noted many benefits of such a policy. First, making everyone a reporter gives many people, especially family members and close friends of a family in crisis, an "out" to make a report. Administrators feel that they capture many more accurate reports out of this sense of civic duty (or, perhaps, not wanting to break the law). This sentiment was later contradicted, however, by questions and concern about whether the general public understands this mandate.

Second, even if universal mandated reporting policies increase the volume of reports and add to the workload of their hotline workers, they feel that this gives their intake workers more useful information to pull together regarding the incident, which is helpful for investigations and provides the most appropriate services for the family.

Third, they said that they believe universal mandated reporting policies also ensure that some cases do not fall through the cracks. In particular, they noted that some institutions, such as schools and hospitals, create their own protocols for reporting of child maltreatment, which can lead to some incidents of child maltreatment not getting reported. Under a universal mandated reporting policy, however, a doctor who has witnessed the same evidence of abuse as another doctor, for example, always knows that he or she must make report, rather than assume the other doctor will do the same.

On the other hand, some administrators expressed concern that universal mandated reporting policies may create a “diluting effect” in which professionals do not report because they are under the assumption that others will. They also noted that in systems with many county-based agencies and hotlines, the average citizen may be confused about where and how to report. States with county-based systems may want to address this possible confusion if considering a move toward a universal mandated reporting policy.

Most of the states we interviewed have some type of penalty in place for failure to report child maltreatment. But administrators reported that it is relatively uncommon for such cases to be prosecuted, because they are often difficult to prove except in the most egregious of circumstances.

Trainings are generally not *required* for professional groups or the general public in states with universal mandated reporting laws. However, administrators said that their agencies do as much outreach as they can, visiting schools, hospitals, civic clubs, and any other opportunity they can find. They also reported that their budgets devoted to public awareness campaigns and trainings are quite limited.

When asked whether the average community member knows whether he or she is a mandated reporter, many of the administrators reported that they either don't know or “probably not.” Still, they believe the message that a universal mandated reporting law sends to community members – that child protection is everyone's responsibility, not just that of child protective services or other specified professionals – is a very important one.

Other Elements of State Statutes

SPARC also examined the date of enactment of universal reporting systems, standards for reporting for universal and non-universal systems, who is required to report, any exceptions to required reporting, and types of child maltreatment covered by the law. **Appendix B** (available for download at: <http://childwelfaresparc.com/appendix-b/>) includes a summary table of these components of the state statutes.

Date of Passage

The vast majority of states' universal mandated reporting laws have been in place since the 1970s, suggesting that these policies may have been the first reporting laws to be passed in their states. Universal mandated reporting laws are not a new phenomenon; rather states with these laws have operated under this framework for many years.

Standard for Reporting

All states statutes include some "standard for reporting" to specify the conditions in which a reporter must make a report regarding an incident of maltreatment. Some states explicitly state that a report is required when a person witnesses child maltreatment. Many more states, both universal and non-universal, merely require that anyone who has *reasonable cause* to believe or suspect child abuse must make a report. For example, Maine's statute reads that: "A report is required when the person knows or has reasonable cause to suspect that a child is or is likely to be abused or neglected..." Similar language is echoed in other statutes.

States without universal mandated reporting laws often specify that reports are required if reporters, *acting in their professional capacity*, have reason to suspect abuse or neglect has occurred. Some states are more explicit than others in terms of how much they emphasize the importance of being in a professional role, rather than a community member, for reporting of child maltreatment. For example, Pennsylvania's statute is quite explicit: "A report is required when a person, who in the course of employment, occupation, or practice of a profession, comes into contact with children, has reasonable cause to suspect, on the basis of medical, professional, or other training and experience, that a child is a victim of child abuse." It is also common for states to specify that a report is required when a commercial film and photographic print processor sees evidence of child sexual abuse during their work.

Other interesting standards for reporting address past abuse or future risk of abuse. For instance, Hawaii's statute specifies that a report is required if a mandated reporter has reason to believe that child abuse or neglect has occurred or *if there is substantial risk that it may occur in the future*; Minnesota's statute specifies that a report is required if a mandated reporter has reason to believe that maltreatment has occurred *anytime in the*

last three years; and Maine and Nevada require a report if a health care professional involved in the delivery of a child sees evidence that the child has experienced prenatal drug exposure.

Mandated Reporters

Because professionals are in a unique position to observe evidence of child maltreatment, all states with non-universal reporting laws specify certain professionals as mandated reporters. Even some universal states specify certain professionals as mandated reporters, highlighting the special responsibility of someone acting in a professional role for reporting child maltreatment. Professionals commonly specified as mandated reporters include medical professionals, members of the clergy, mental health professionals, and law enforcement officials. Many states also specify photographic print processors as mandated reporters.

Additional examples of professionals specified as mandated reporters in the law include:

- Members of a child fatality review or the multidisciplinary child protection team
- CASA volunteers and guardians ad litem
- Employees of a county office of education or the State Department of Education
- Workers or evaluators employed by a licensing agency
- Firefighters
- Public assistance workers
- Veterinarians
- Officers and agents of the State Bureau of Animal Protection or county humane society
- Department of Parks and Recreation employees
- Employees of any public or private agency providing recreational activities
- Public housing resident managers
- Members of the governing body of a private school
- Mediators
- School bus drivers or attendants
- Persons employed in a professional capacity in any office of the friend of the court
- Computer providers, installers, or repair persons
- Internet service providers
- Occupational therapists
- Circuit court and family court judges.

Exceptions

Almost all states define exceptions, or conditions in which people otherwise specified as mandated reporters are not required to report, for various legal privileges identified elsewhere in the law. The most common exceptions are given for clergy-penitent and attorney-client privileges, but there are many variations.

Some states actually specify what privileges are *not* recognized. Examples include: Alaska, which says that: “Neither the physician-patient nor the husband-wife privilege is recognized;” Colorado, whose statute reads that: “The physician-patient, psychologist-client, and husband-wife privileges are not allowed as grounds for failing to report;” and Iowa, which states: “The husband-wife or health practitioner-patient privilege does not apply to evidence regarding abuse to a child.”

California and Colorado only mention the clergy-privilege as an exception. Georgia and Illinois do not allow for any exceptions. Others, such as Connecticut, do not address this issue at all in the statute.

Child Maltreatment

Although the most common type of child maltreatment specified in the law is child abuse, many state statutes also specify other forms of child maltreatment, in addition to child abuse. These include sexual abuse, mental and/or emotional abuse, neglect, and maltreatment.

Conclusion

Advocates have an important role to play in policy debates regarding whether to move to a universal mandated reporting system. Advocates can continuously examine their state’s reporting and substantiation rates as they analyze proposals to reform a reporting system, as well as compare the specifics of their state’s statute with that of other states, including, but not limited to, the elements discussed above. Together, advocates and researchers can do more in-depth comparative analysis of different types of mandated reporting laws.

In addition, advocates are in a unique position to raise awareness among state lawmakers and administrators of the importance of education, public awareness, and continuous training of professionals and community members. Regardless of the type of reporting system a state has in place, effective training and education are some of the most crucial components of an effective child maltreatment reporting system.

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Notes

¹ Child Welfare Information Gateway, Mandatory Reporters of Child Abuse and Neglect: Summary of State Laws (April 2010), p. 3.

² National Conference of State Legislatures, Mandatory reporting of child abuse and neglect laws (Updated June 2012), accessed at <http://www.ncsl.org/issues-research/human-services/2012-child-abuse-mandatory-reporting-bills.aspx>.