

PSU scandal stirs debate over abuse reporting laws

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Posted: 4:11pm on Nov 10, 2011; Modified: 4:17pm on Nov 10, 2011

NEW YORK — When Joe Paterno, the ousted Penn State football coach, was confronted with a possible case of child rape, he notified his bosses rather than call the police or the child-abuse hotline. That was all Pennsylvania law required him to do, yet in most other states the failure to call could be a crime.

In more than 40 states, the prevailing policy is that such reports must be made to police or child-protection authorities swiftly and directly, with no option for delegating the task to others and then not following through.

Already, the Penn State scandal has sparked calls for Pennsylvania to toughen its law. State Rep. Kevin Boyle says he will introduce a bill that would require mandated reporters - including school and hospital employees - to notify police themselves rather than pass their information on to superiors at work.

"It is clear that a loophole exists in our law," Boyle said. "My legislation would close that loophole by requiring those who are aware of the abuse to report it to law enforcement authorities, rather than simply following an in-house chain of command."

A review by The Associated Press of the abuse-reporting laws of all 50 states showed that Pennsylvania is one of only about a half-dozen states where the protocol for staff members of schools, hospitals and other institutions is to notify the person in charge in the event of suspected child abuse. That superior is then legally obliged to report to the authorities.

In the Penn State case, the superiors notified in 2002 by Paterno - the athletic director, Tim Curley, and a vice president, Gary Schultz - have been charged with failing to report the suspected abuse. They deny wrongdoing. State authorities say that failure enabled former assistant coach Jerry Sandusky to perpetrate additional sexual assaults on boys. Through a lawyer, he says he is innocent.

According to a 2010 database compiled by the National District Attorney's Association, other states with provisions resembling Pennsylvania's - giving institutional staff the option of reporting suspected abuse to their superiors - include Virginia, Georgia, Massachusetts, Missouri and South Dakota.

These policies "defy common sense and should be changed," said Victor Veith, a former prosecutor who heads the National Child Protection Training Center in Winona, Minn.

The policy, as it unfolded at Penn State, risks "putting the fox in charge of the henhouse," wrote social worker Julia Tilley, a Penn State graduate, in an op-ed this week for the Patriot-News of Harrisburg, Pa.

Far more prevalent across the country are laws that mandate informing law enforcement authorities. In some states, such as Michigan, New York and Hawaii, the employees must also notify the person in charge at their institution. But many of the laws explicitly warn that informing one's superior does not relieve the employee of the obligation to personally report the suspected abuse to outside authorities.

For example, the Texas statute stipulates that teachers, nurses, doctors, day-care workers and various other mandated reporters "may not delegate to or rely on another person to make the report."

Virtually every state, including Pennsylvania, mandates that people in certain designated jobs file reports if they suspect child abuse. In Pennsylvania's case, this includes a wide range of health-care workers, school employees, child-welfare workers, members of the clergy and law enforcement personnel.

But at least 18 states have broader language in their laws saying that every person, regardless of job, who suspects child abuse has a legal duty to report to the authorities.

Among them is Indiana, where the statute says, "Any person who has reason to believe that a child is a victim of abuse and neglect must report."

Jim Hmurovich, president of the Chicago-based advocacy group Prevent Child Abuse America, is a former director of Indiana's Division of Family and Children. He supports the state's broad reporting requirement, even though he said its impact is hard to quantify.

"It gave everyone some comfort that they were doing the right thing legally if they report suspicions of abuse," he said. "If children are so important to us, shouldn't it be all our responsibility to make sure they're safe?"

Other experts, however, suggest these broad-based reporting laws are virtually unenforceable and - if somehow they were strictly enforced - might flood the child-protection system with baseless reports filed by untrained members of the public.

"I'd be in favor of as broad a mandated reporting law as possible," said Veith. "But it needs to be accompanied by required training."

Sociology professor David Finkelhor, director of the Crimes against Children Research Center at the University of New Hampshire, said several studies have shown that many professionals who are required to report suspected abuse - including doctors and psychologists - often decide not to

report. Reasons vary, he said, including a fear that authorities would mishandle the case or a sense that the problem could be better addressed privately.

"Prosecutions under the statutes for not reporting are unbelievably few and far between," Finkelhor said. "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."

Frank Cervone of the Support Center for Child Advocates, which handles many child-welfare cases in Philadelphia, said the Pennsylvania reporting law should be changed to impose tougher penalties for failure to report.

Under the current law, that offense is a third-degree misdemeanor, punishable by up to a year in prison. At the time Curley and Schultz are accused of failing to report, it was summary offense punishable by up to 90 days in prison and a \$200 fine.