

Penalties for falsely reporting child abuse

By Daniel Pollack

The Jerry Sandusky criminal trial is over; the civil lawsuits are in active settlement mode. Undoubtedly, the entire country is more tuned into child abuse than it ever was. The National Conference of State Legislatures reports that about 105 bills on the reporting of suspected child abuse and neglect have been introduced in 2012 legislative sessions in 30 states and the District of Columbia.¹ All of them include a penalty for failing to report suspected child abuse.

Oregon is one of the states which recently enacted child abuse reporting legislation. It added to the list of mandated reporters any employee or volunteer of organization providing child-related services or activities, any employee of a higher education institution, and any coach, assistant coach or trainer of child athlete and individual who provides guidance, instruction or training in youth development activities and youth camps.

Overlooked in the wake of this new awareness is the sad reality of false allegations of child abuse. There is no disputing that child abuse is a serious and pervasive worldwide problem.² In most situations, abuse allegations are made responsibly, based on actual abuse. But often in the context of divorce or custody proceedings, there is a greater chance that a baseless abuse allegation may be made.

To address this concern, Oregon also passed legislation regarding the false reporting of child abuse. The law³ reads: “(1) A person commits the offense of making a false report of child abuse if, with the intent to influence a custody, parenting time, visitation or child support decision, the person:

(a) Makes a false report of child abuse to the Department of Human Services or a law enforcement agency, knowing that the report is false; or

(b) With the intent that a public or private official make a report of child abuse to the Department of Human Services or a law enforcement agency, makes a false report of child abuse to the public or private official, knowing that the report is false.

(2) Making a false report of child abuse is a Class A violation.”

In fact, most states⁴ have similar statutes. For instance, Arkansas⁵ provides that:

¹ <http://www.ncsl.org/issues-research/human-services/2012-child-abuse-mandatory-reporting-bills.aspx>

² See e.g. Lalor, K. & McElvaney, R. (2010). Child sexual abuse, links to later sexual exploitation/high risk sexual behavior and prevention/treatment programmes. *Trauma, Violence and Abuse*, (11), 159-177.

³ ORS 419B.016.

⁴ AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MA, MI, MN, MO, MT, NE, NY, ND, OH, OK, OR, PA, RI, SC, TN, TX, VI, WA, WY. A summary of state laws regarding penalties for the failure to report and false reporting of

“(a) A person commits the offense of making a false report under this chapter if he or she purposely makes a report containing a false allegation to the Child Abuse Hotline knowing the allegation to be false. (b) (1) A first offense of making a false report under this chapter is a Class A misdemeanor. (2) A subsequent offense of making a false report under this chapter is a Class D felony.”

Colorado⁶ provides that “No person ... shall knowingly make a false report of abuse or neglect to a county department or local law enforcement agency. Any person who willfully violates the provisions ... commits a class 3 misdemeanor and shall be punished ... [and] shall be liable for damages proximately caused thereby.”

The repercussions of false abuse allegations are traumatizing and stigmatizing to the child allegedly abused. The child may have to undergo unnecessary psychological and medical examinations. And commonly, rifts between the child and his or her parents and siblings may develop. In the divorce and custody context, an accusation of child abuse may begin in family court, but it can quickly wind up in civil, criminal, and juvenile courts.

When child abuse allegations are true, CPS must do everything possible to protect the child. When false accusations are made, the accused individual's morally upright reputation can be permanently damaged. CPS workers know that abuse allegations are difficult to prove. Learning to decipher false allegations from real ones is a demanding and perpetual challenge. In either case, they can lead to protracted and difficult legal battles.

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child abuse, written by the Child Welfare Information Gateway, is available at http://www.childwelfare.gov/systemwide/laws_policies/statutes/reportall.pdf.

⁵ Title 12, Subtitle 2, Chapter 18, Subchapter 2, § 12-18-203.

⁶ CRS Title 19, Article 3, Part 3, § 19-3-304.