



OCA NEWS

Mandatory Reporting

By Amy Howell, J.D.



Mandatory child abuse reporting laws connect the community to the child protection function of a state. They are a key public policy tool for promoting awareness of child abuse and enhancing the safety of children. Such laws have been in existence in some states since the 1960s. Following the formal recognition of the “battered child syndrome” by the medical and legal fields in 1962, Congress took its cue and brought the issue to the attention of the general public. The Child Abuse Prevention and

Treatment Act, originally enacted in 1974, required all states to enact mandatory reporter statutes as a condition of funding.

Today, all states have a mandatory reporting law, though they vary in their design. A few states require all adults to report reasonable suspicions of child abuse, but this remains the minority approach. Most mandatory reporting laws are similar to Georgia’s in that they take the form of designating certain

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Child Death Findings

On April 15, 2013, The Division of Family and Children Services (DFCS) released a quarterly report that set forth child fatality statistics for children who died in 2012. The children listed in this report are children whose families have a prior contact history with DFCS within 5 calendar years preceding their death. In its oversight role for DFCS, OCA participates in the 24-hour child death staff review for the children who either have an open case at the time of their death or the child/child’s family had contact with

DFCS during the previous five years. The top two causes of death as outlined in the report for 2012 are Natural Causes (33%) and Accidents (23%) for a total of 56%. Consistent with the findings of 2011, we again see sleep related deaths as one of the top reasons that children are dying.

When looking at the number of children who died in the state of Georgia between April and December 2012 who had prior DFCS history, while it is too early to draw any final conclusions, it is

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ANNOUNCEMENTS

The Office of the Child Advocate is very pleased to announce that Brad Ray, Advisory Board Member, has been elected to the National CASA Board of Trustees.

The Office of the Child Advocate will host a Child Abuse Protocol and Child Fatality Review training on June 6th, 2013 in Gwinnett County, Georgia. To register please visit <http://oca.georgia.gov>.

OCA is very excited to announce that it recently took part in the inaugural Child Advocacy elective program at the Morehouse School of Medicine. OCA worked with the Morehouse pediatric residents specifically on the topics of mandated reporter law and Georgia’s Child Fatality Review Process.

A forensic interviewing of children class is scheduled for July 15, 2013 – July 19, 2013 in Gwinnett County, Georgia. The application deadline is June 5, 2013. Please register at <http://oca.georgia.gov>.

A Guardian Ad Litem training is scheduled for June 14th, 2013 in the Lookout Mountain Judicial Circuit. For more information, please visit our website at <http://oca.georgia.gov>.

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Child abuse is a complex social issue, and child protection is a community responsibility.

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professionals with the responsibility to report suspicions of child abuse and neglect. All individuals are, of course, encouraged to report suspected child abuse, but only certain occupations are subject to criminal penalty for failure to do so. Doctors, teachers, child care professionals, counselors, law enforcement officers, and coroners are commonly included. More novel categories include podiatrists, dentists, film developers and computer repairmen. Through statutory designation, mandated reporters have a defined role as the first line of protection for abused and neglected children.

Mandatory reporting laws appear to be effective. Reporting data show that the majority of reports of child abuse and neglect are made by mandated reporters, particularly teachers and doctors. Not surprisingly then, child advocates and policymakers often consider how to strengthen this strategy further. Over the years a number of proposals have been considered to expand or refine states' mandated reporter laws, but the public and political will has never been greater than it was last year. The Penn State child sex abuse scandal intensified the spotlight on child abuse reporting as the public and policymakers reacted to the failure of several adults to act protectively on behalf of children. When policymakers considered these statutes in light of the Penn State events, however, they discovered some inadequacies. Many state mandatory reporting laws did not explicitly require people such as coaches and athletic directors who

might have contact with children to report child abuse. Others were ambiguous as to their application to universities and colleges. Thus, as legislators across the country took their seats for the start of 2012 legislative session, they were eager to bridge these statutory gaps. The National Conference of State Legislatures reported that 107 bills in 30 states and the District of Columbia were introduced in the 2012 session on the reporting of suspected child abuse and neglect. Sixty-nine bills

Whether a concerned citizen who volunteers with the local little league or a professional whose job responsibilities include working directly with children, the real opportunity to protect a vulnerable child lies in prevention and early intervention.

in 26 states have been introduced in the 2013 legislative session.

The Georgia General Assembly was in good company last year, as it considered several proposals to amend the state's child abuse reporting law, O.C.G.A. § 19-7-5. Though Georgia law included “school teachers” and “school administrators” in its list of mandated reporters, it was not explicit in extending that obligation to higher education settings. Additionally, Georgia's law included the vague category of “child service organization personnel” that was not further defined. House Bill 1176,

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better known as the adult criminal justice reform bill, included statutory corrections for these deficiencies. Among other changes, the bill clarified that “school” means “any public or private pre-kindergarten, elementary school, secondary school, technical school, vocational school, college, university, or institution of postsecondary education.” In this way, it attempted to solve for the “Penn State problem” and eliminate any question that adults supervising the

Education and awareness will increase compliance with the law, but the true goals of Georgia’s mandated reporting requirements are early intervention and prevention of child abuse. If you are a mandated reporter or a concerned citizen reporting is an important means of protecting children.

children enrolled in sports camps, art classes, leadership programs, day care centers or the like operating on college or university campuses must now be vigilant about child abuse. Most critically, the bill provided a definition of “child service organization personnel,” expanding its scope to cover a broad range of volunteers and professionals engaged in direct services with children. Reacting further to the Penn State scandal, the definition expressly includes coaches. It also includes clergy by implication, and accordingly, a definition of “clergy” has been added to the statute.

As a result, most adults who work or volunteer directly with children in Georgia now fall within the scope of the state’s mandatory child abuse reporting law. Those adults must report their

reasonable suspicions of child abuse or neglect immediately to the local DFCS office in the county where the child lives or where the abuse occurred. If DFCS is not available, the report can be made to local law enforcement or the district attorney’s office by statute. To facilitate reporting, DFCS has established a centralized after-hours call center that provides intake services for all counties other than Fulton and DeKalb. Mandated reporters and others can call 1-855-GACHILD for a toll-free, single point of access to child protective services. Any person required by law to report who knowingly and willfully fails to do so may be charged with a misdemeanor crime. More importantly, however, the mandated reporter law is intended to promote the protection of children and limit the number of missed opportunities that leave children in danger.

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encouraging to see the striking difference in the number of children whose prior history included the practice of diversion which ended March 31, 2012, in contrast to the number of children whose prior history included the newer practice of family support service, a practice which began April 1, 2012. Georgia certainly appears to be on the right track with the new family support practice.

OCA continues to stress prevention as its focus when addressing child fatalities. The practice of reviewing the deaths within 24 hours affords the opportunity to identify trends in child fatalities which can be used to change practice and policy and to increase the training and support of DFCS’ frontline staff and supervisors to better ensure a thorough, appropriate, and comprehensive response to all reports of child maltreatment.

The CASES of OCA

The cases that are investigated by the OOCA come from three distinct sources. Constituents directly contact our office to file a complaint against the DFCS; letters that are written to the Governor regarding the welfare of children, and child death/ serious injury reports from DFCS.

Some of the more common types of cases that OCA is asked to address that stem from direct reports into our office and from letters to the Governor are:

- Delays in children being placed with family members through the Interstate Compact for the Placement of Children
- Delays in children in foster care being returned to their parents or being placed with family members
- Alleged inadequate child protective services investigations by the Division of Family and Children Services; and
- Breakdowns in communication between the Division of Family and Children Services and the families that they are currently serving and/or investigating

OCA investigates each child death where the family has a history with DFCS. DFCS alerts OCA by sending Child Death and Serious Injury reports to the Director of OCA. In these cases OCA analyzes the history that a child’s family has with the DFCS’ services to assess whether or not the family was adequately served during DFCS’ involvement in a manner that could have helped the family avert the tragedy of a child death.