

Maine's Child Protection System

Government Oversight Committee Work Session

Areas for Concern or Improvement To Consider for Legislation

July 26, 2018

From OPEGA Information Brief

- A. Guidance and training for mandated reporters, including expectations of what constitutes “reasonable cause to suspect” for those in various roles
1. Strengthening training requirements for mandated reporters, i.e. consider whether requirement for training every 4 years is sufficient.
 2. Define/clarify roles and responsibilities associated with providing, obtaining and monitoring mandated reporter training.
 3. Define “reasonable cause to suspect” or otherwise establish expectations or situational criteria of what constitutes “reasonable cause to suspect” - perhaps framed around known high risk factors for child abuse and neglect (possible statutory change and/or inclusion in mandated reporter training).

Note that:

- a. Mark Moran, LCSW and Chair of the Maine Child Death and Serious Injury Review Panel, provided three study reports and an article on the topic of “reasonable suspicion” as it pertains to child abuse and neglect. The three studies, taken together, found that among pediatricians, pediatric residents, and experts on child abuse, there was no consensus on how “reasonable suspicion” (or a similar term) is interpreted, defined, and applied or how likely abuse must be before reasonable suspicion can be said to exist. The article provided identified that all states have similar statutory language and that interpreting what constitutes reasonable suspicion and determining when suspected child abuse should be reported will remain difficult until steps are taken to specify estimated probability that constitutes reasonable suspicion and to create systematic and effective strategies for training mandated reporters about reasonable suspicion.
- b. OPEGA did not observe any meaningful guidance on what constitutes “reasonable cause to suspect” in the DHHS-approved mandated reporter training currently posted on the web.

- B. Extent to which mandated reporters, OCFS and ARP seek to verify, and can verify, information reported by a child's parents.
1. Establish expectations/requirements for when schools should require parents/guardians to provide documentation supporting reasons for frequent or extended absences from school whether excused or unexcused and regardless of age.
 2. Explore possible options for facilitating a school's ability to independently verify, directly with health care providers, health care information on a student provided by a parent/guardian.
 3. Understand how home schooling impacts effectiveness of child protection system.
- C. Extent and manner of communication and information exchange among the various key entities that are part of the child protection system including schools, law enforcement, health care providers, counselors and therapists, community service providers, OCFS Intake, OCFS Field Offices and ARP providers.

1. Establish expectation/requirement that schools share information on observed risks for child abuse/neglect, including reports and involvements with DHHS, for students transferring to another school.
2. Explore barriers/challenges and options for facilitating/requiring sharing of information on potential or actual abuse/neglect risks and actions for a child among key mandated reporters including:
 - DHHS to reporters on actions taken on reports they made;
 - DHHS notification to schools, law enforcement and health care providers when assessments/cases are opened and closed; and
 - Between and among law enforcement, schools, health care providers and DHHS.

From Public Comment

D. Strengthen Maine’s mandated reporter laws and establish means to hold mandated reporters accountable for meeting reporting and training requirements.

1. Determine whether other states mandated reporter laws have aspects that Maine should consider adopting. (See information provided by Rep. Sutton at June 28th meeting.)
2. Establish expectation/requirement that mandated reporters who are licensed or certified professionals must have obtained statutorily required training before obtaining licenses or certifications.

Note this has been considered in two past bills but not enacted. Proponents cite potential issues with implementation and monitoring of compliance with such a requirement.

3. Establish criminal penalty for mandated reporters who fail to report.

Note that this has been considered in a past bill and was not enacted. Current statute currently has a civil penalty. Public commenters at the GOC meeting on May 31st expressed concern about how this would be meaningfully implemented/operationalized. OPEGA observes that it would seem necessary to specify/define “reasonable cause to suspect” before establishing a criminal penalty.

E. Ensure that child’s best interest is primary consideration in all child protection actions and decisions.

1. Assess impact of recent statute change from LD 1187 that defines child’s best interest in child protection statutes and whether additional statutory changes may be useful for clarifying child’s best interest is primary for DHHS and courts.
2. Understand how federal laws and regulations are impacting DHHS and court decisions/actions with regard to child’s best interest and family rehabilitation and reunification.

From DHHS Strategic Initiatives

- F. Increase focus on the “Child’s Best Interest” through a full review of relevant statutes and policies and the implementation of the resulting recommended changes. This objective was initiated in April 2018 and will require statutory changes to complete.
- G. Change Mandated Reporting statute to create a penalty for failure to report. This objective initiated in April 2018 and will take legislative action to complete.
- H. Change statutes to provide authority to Child Welfare staff to access education records. This objective was initiated in April 2018 and will take statutory changes to complete.

Potentially Included in the Anticipated Governor's Bill (as per Director Ashcroft's Notes from Commissioner Ricker's Testimony)

1. Funding and positions for an additional assessment unit in each District Office and an additional Intake Unit. (To allow for capacity to handle all intake and assessments with State staff rather than ARP.)
2. Funding for several efforts related to compensation for caseworkers to assist with requiring/obtaining increased skills/experience for certain functions, and to assist with retention.
3. Language to add more accountability and/or increase penalties for mandated reporters who fail to report.
4. Language to prioritize child's best interest over reunification.
5. Language to allow OCFS access to criminal records.
6. Language to provide for OCFS retention of hard copy records relevant to cases where there were agency found allegations of child abuse/neglect to be unsubstantiated.
7. Funding for updated technology, i.e. replacement system for MACWIS.