

Dear Representative Pugh,

Following is a set of comments from school superintendents and attorneys who represent school districts around the state. These comments are in response to various proposed changes to the mandatory reporting statute 33 V.S.A. § 4913.

Please let me know if you have any questions.

Jeffrey Francis
Executive Director
Vermont Superintendents Association
April 9, 2015

From Jay Nichols, Superintendent for the Franklin Northeast Supervisory Union:

I represent one of the poorest areas in Vermont. In our area schools, we make many reports to the Department of Children and Families (DCF). The message that many of our educators have perceived coming from DCF is that we report too much. Nevertheless, I have made it clear at Supervisory Union in-service trainings and through my weekly memo to all staff that it is our duty to report. We report everything that could rise to the level of suspicion. We leave it up to the Department of Children and Families as to whether something needs to be investigated or not. I make it very clear to everyone in our organization that we are not “abuse investigators.”

I understand that you have received testimony that some schools have meetings of school officials and together those officials determine whether a report needs to be made or not. Further, it is my understanding that you have been led to believe that these meetings often push schools past the required 24 hour reporting deadline. I have spoken to many Superintendents on this subject and they all assure me that this is not the case in their schools. In our schools, we do not wait to have a meeting before reporting to DCF; we always report within the allocated time – in fact, often we report immediately and DCF investigators will ask us to interview the student to ask some follow up questions and call them back with greater detail.

If the committee's intention is to make sure that reports are being made then make the language in the law more clear. But please don't put extra pressure and threats of consequences on our hard working educators who really are doing the best they can in very difficult situations.

Finally, I have been doing this work for a long time. I have never seen more children suffering from trauma of one sort or another in my career. The issues that students are bringing to school in terms of

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their emotional stability are frightening. We need to work hard to break down any barriers between social services and schools to provide all students with the resources they need to be successful and contributing members of our society. Thanks for your willingness to look at these systemic problems.

From Jeanne Collins, Superintendent for the Rutland Northeast Supervisory Union:

In the field of education, we are trained as mandated reporters to make a call to DCF any time we have a reasonable suspicion that a child is in imminent danger of being harmed or has been harmed. We are taught it is not up to us to determine if this suspicion is accurate, make the call and let DCF determine that. We do this on a regular basis. I made a call just last week (and was told DCF is not interested in the case).

As I read this bill, I wonder what problem it is trying to solve.

The issue at stake is child safety. The recent tragedies are largely the result of a lack of resources at DCF as their budget continues to be cut. More often than not, when I call DCF, they tell me they are not taking a case and it usually comes down to capacity.

If the legislature wishes to help children who are in danger of being harmed, the right approach is to support DCF with resources such as staffing and training. We are asking a bare bones operation to help with every case in the state. This is not a citation against DCF; it is simply an acknowledgement that they need support and resources to be more effective. Changing the standards for mandatory reporters is simply not going to help that basic fact.

From Patti R. Page of Stitzel, Page & Fletcher, P.C.:

I understand that there are various measures before the General Assembly that propose to reform the mandatory reporting statutes in response to the child protection reform efforts. The recent and various efforts designed to make all reporters report everything, under penalty of being charged with a felony, do not get at the heart of the problem. When reporters report, frequently the referral is declined by DCF and the remainder of the system. Unless and until DCF is properly organized, staffed, and provided with sufficient resources, there will continue to be many cases where children face physical and/or psychological abuse and neglect over extended periods of time without intervention, or with ineffective intervention. Once a non-law enforcement reporter reports, (s)he is done. It is law enforcement and DCF that have the authority to investigate and take action.

Broadening of reporting requirements will result in greater numbers of reports that are duly made but go without action or without adequate action. And, the less “reasonableness” required to trigger the reporting duty, the more inefficient the processing of the reports will become, since additional time will be required for DCF to sort the likely from the unlikely reports. The system is already overburdened. It makes more sense to work to reduce the burden by providing staff and other resources to handle cases on the ground, than to create statutes that will result in increasing the burden.

Making broad changes to the criminal law quickly in response to specific instances in which prosecutors felt that the system did not work, without adequate consideration of the potential downsides for children,

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law enforcement, and mandatory reporters, and without simultaneously fixing the system, is not a good idea.

From Christopher B Leopold of Wells & Leopold, LLC:

Changing the standards applied to reporting requirements has the potential to increase the workload on educators without meaningfully improving the way we protect children. The proposed standard may lack any context to a reporter in many situations. Does a bruise on a child, without any context, constitute "any information about child abuse or neglect"? It may when a case arrives on the state's attorney's desk, but what was the context at the time the educator made the observation or received the information? My belief is that the reasonable cause standard was intended to both establish a context or nexus for reporting and, recognizing the many public policy interests, to create a threshold for both reporting and a response by the State. Public policy interests would be better served by an attempt to define the reasonable cause standard in the statute.

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