

SPOTLIGHT FOLLOW-UP

Across region, outdated sex abuse laws have loopholes



SUZANNE KREITER/GLOBE STAFF

Laura and Tony Siracusa, photographed in their daughter's bedroom.

By Todd Wallack, Jonathan Saltzman and Jenn Abelson | GLOBE STAFF

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Laura and Antonio Siracusa were horrified when they discovered their teenage daughter was in a sexual relationship with her Spanish teacher from Cardinal Spellman High School in Brockton seven years ago. The daughter and teacher denied they were a couple, the Siracusas said. But the parents eventually found evidence they couldn't ignore — including a hotel receipt and graphic photos of the teacher

The Catholic school fired the teacher after administrators saw the photos, according to the Siracusas and their attorney. But the teacher refused to stop seeing the Siracusas' daughter.

Yet, when the parents contacted a lawyer and police to intervene, they got an ugly surprise: There was nothing authorities could do. In Massachusetts and some other states, it turns out, it's legal for a teacher to have sex with a high school student, as long as the student is at least 16 and consents.

"It was unfathomable to us," recalled Laura Siracusa, who told her story to state legislators last year in an unsuccessful effort to persuade them to change the law. "We couldn't get our arms around the fact that we had no legal options."

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Attorneys, police, and child welfare advocates say the age of consent law in Massachusetts is just one example of how outdated statutes and regulations sometimes enable educators in both public and private schools to exploit students with impunity.



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How educators find new jobs after alleged sexual misconduct

The Spotlight Team identified 31 private school educators who found work at other schools or other settings with children after accusations of sexual misconduct.

Private schools, painful secrets

Globe investigations, Spotlight reports

Massachusetts and many other states also impose strict time limits on when victims can seek criminal charges or file lawsuits. Most states, including Massachusetts, allow schools to keep incidents secret by demanding confidentiality agreements as part of settlements with abuse victims. And across the country, school officials are often reluctant to warn their peers about accused teachers for fear that they could be sued.

The problem is that many sexual abuse and privacy laws weren't written specifically to deal with misconduct by educators, advocates say, and sometimes seem tone deaf to the unusual power that a teacher has over a student. In addition, private schools are often exempt from many rules that do exist, such as requirements to license educators.

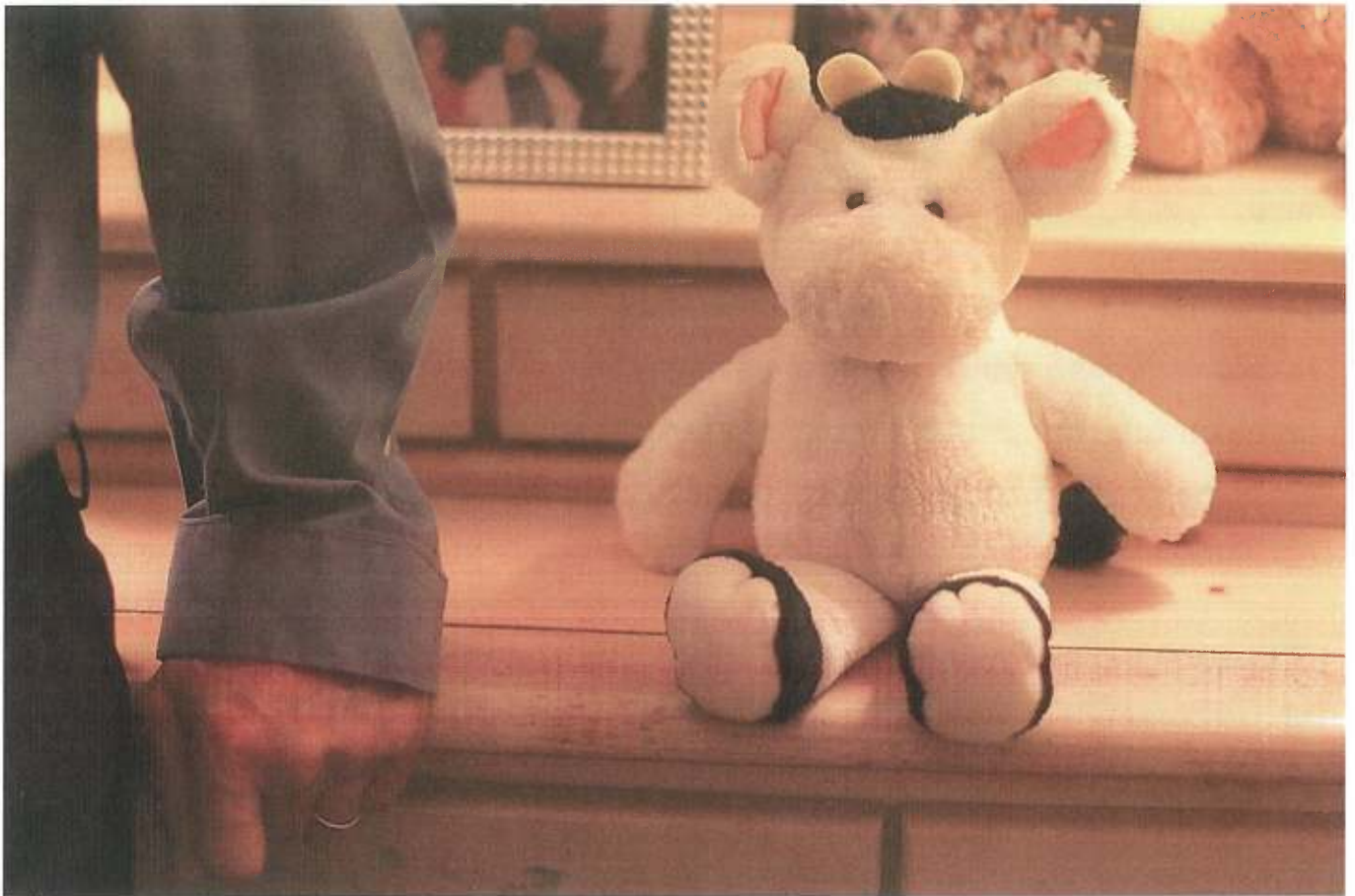
"There are too many loopholes," said Terri Miller, president of Stop Educator Sexual Abuse Misconduct & Exploitation, an advocacy group based in Nevada that is pushing for stronger laws nationwide.

A recent wave of high-profile sex scandals at private schools, including St. George's School in Rhode Island, has highlighted the limits of child protection laws as well as disagreements about what they require. Rhode Island State Police, for instance,

investigated alleged sexual misconduct by 11 former employees and students at St. George's in the 1970s and 1980s but brought no charges because the incidents were too old or were not clearly illegal under the laws at the time.

Investigators also found the school failed to report many cases of abuse to authorities. But the school faced no penalties either. After the scandal became public, some Rhode Island officials argued state law only required schools to report child abuse by parents and guardians, not school employees. That prompted lawmakers to clarify the law last summer to say that schools must report abuse by anyone.

Allegations of sexual misconduct at schools are widespread. A Spotlight Team investigation this year found at least 110 New England private schools faced allegations that educators committed sexual misconduct in recent decades, affecting more than 300 students.



SUZANNE KREITER\GLOBE STAFF

This is the first stuffed animal the Siracusas' daughter ever received -- in her bedroom with her father standing next to it.

Comments
A national study suggested sexual misconduct is common at public schools as well. But many perpetrators are never prosecuted, even when schools have enough evidence to fire them. And the Globe found more than two dozen cases where private school employees went on to work at other schools after being accused of sexual misconduct.

Advocates say much more needs to be done to overhaul the laws and regulations covering sexual abuse of students, including making it illegal for teachers to have sex with students who have yet to graduate from high school.

Dudley Police Chief Steven J. Wojnar has been pushing to change the age of consent law in Massachusetts for more than a decade — ever since his department investigated a case involving 31-year-old public school teacher having sex with a 16-year-old male student.

In that case, prosecutors were eventually able to charge the teacher, Amber Jennings, with distributing pornography to a minor because she admitted to e-mailing photos of herself in the nude to the student. But Wojnar was surprised to learn during the investigation just how few restrictions exist for teachers having sex with older students in Massachusetts.

In this state, the age of consent for sexual contact without penetration is just 14. That means it's potentially legal for a teacher to kiss and fondle a student as young as 14, so long as the teenager consents. And teachers can legally have sex with students who are 16 and older.

“It’s ridiculous,” Wojnar said.

Sexual abuse allegations are widespread

Comments

The Globe found at least 110 private schools in all six New England states have faced allegations of sexual misconduct by staff members.

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Several states, including Connecticut, Maine, and Texas, have revised their age of consent laws over the years to bar teachers from having sex with students, regardless of their age.

But again and again, Massachusetts lawmakers have let similar bills languish even though the Dudley police chief said there has been no formal opposition.

“I am hopeful, after a dozen or so years, something will finally be done,” Wojnar said.

Even when sexual misconduct is clearly illegal, prosecutors and attorneys are often barred from pursuing legal action because victims miss the legal deadlines to come forward. In New York, for instance, prosecutors can’t charge abusers with some sex crimes committed against children after the victim turns 23. And student victims are often barred from suing schools in Rhode Island after they turn 21.

The limits have been an issue even in states with more generous statutes of limitations, such as Massachusetts, where criminal sexual abuse charges involving children can be brought up to 27 years after the fact — and even later if there’s corroborating evidence, such as video or DNA. Nonetheless, Middlesex County prosecutors determined they could not pursue allegations that Arthur P. Clarridge,

Comments
the assistant headmaster of the Fessenden School in Newton, abused a former student in 1970 because too much time had elapsed. Prosecutors sent the alleged victim a letter in July noting the statute of limitations had expired.

“I was crushed,” said the former student, John Sweeney, of New London, Conn., who went to authorities only after the Globe recently chronicled multiple allegations of sexual abuse at Fessenden in the 1960s and 1970s, including his. “I wanted justice.”

Statutes of limitation exist for a reason, of course: It can often be difficult for people to defend themselves against charges that are decades old. Memories fade over time. Witnesses die. Documents are no longer available.

But advocates say the restrictions often make it impossible to hold abusers accountable for their crimes and prevent them from abusing other children.

“Statutes of limitations bottle up information about who the perpetrators are and which institutions are covering up the incidents,” said Marci Hamilton, chief executive of Child USA, a think tank devoted to child protection that is affiliated with the University of Pennsylvania.

Some experts have also proposed increasing state licensing requirements for private school educators, so state regulators would have the legal authority to investigate complaints about sexual misconduct and discipline teachers even if they work in private schools. (Currently, most states do not require private school teachers to be licensed.)

In addition, some advocates have proposed strengthening laws requiring educators to report sexual misconduct to the state, such as increasing the penalties for flouting the law.

Finally, some state laws actually discourage schools from reporting problem teachers, as Pomfret School in Connecticut recently pointed out.

In September, Pomfret told alumni that a seven-month investigation found four teachers likely engaged in sexual misconduct with students one in the early 1970s

acknowledged it gave the teachers recommendations to help them find new jobs. The letter did not name the teachers.

But a school spokeswoman told the Globe that Pomfret could not even not warn other schools where the educators are working today because of state privacy laws, which generally bar employers from disclosing confidential personnel information without written permission from the workers.

Connecticut attorney Morgan Rueckert, whose law firm represents more than 30 private schools in the state, said other institutions generally have a similar interpretation of the law.

The head of Connecticut's private school association said he thinks the privacy law should make exceptions for schools that want to warn peers about employees who have abused or harassed students.

"I think the protection of children trumps personal privacy," said Douglas J. Lyons, executive director of the Connecticut Association of Independent Schools.

Some schools also claim they have to remain silent because of sweeping confidential settlements they negotiated with the school employees or victims. One agreement signed by the Brooks School in North Andover in 1995 was so broad that it even barred the victim from contacting any government agencies, including the police.

Victims' lawyers argue such agreements could potentially enable people accused of sex abuse to escape prosecution and continue to abuse other children.



Marci Hamilton, chief executive of Child USA.

Comments
“Confidentiality agreements perpetuate the cover-up by the pedophile and the institution,” said Boston lawyer Mitchell Garabedian, who represents victims of sexual abuse.

A few states have passed laws banning confidentiality agreements or requiring schools to disclose sexual misconduct when their workers apply for new jobs. But some of the laws, including one in Connecticut, apply only to public schools or do not cover situations like the one involving Pomfret, where teachers have already moved on.

With so little government oversight, some private school officials continue to maintain a veil of secrecy over allegations of sexual misconduct.

Look up details on a specific school

More than 100 private schools in New England have faced reports that their staff sexually abused or harassed students. Select a school from the dropdown menu below to explore the claims.

Select a school... ▼

Note: If a school is not on this list and you think it should be, please email spotlight@globe.com or fill out this short survey.

Cardinal Spellman, where the Siracusas said their daughter became romantically involved with her Spanish teacher when she was about 17, refused even to confirm that the teacher ever worked there, let alone that he was fired for sexual misconduct. That’s despite the fact that the teacher was listed on the school’s website at the time.

“We do not comment on personnel matters involving any current or former employees in our schools,” said Terrence Donilon, a spokesman for the Archdiocese of Boston.

That’s no comfort to the parents, who said they haven’t heard from their daughter in more than six years.

After she turned 18, she moved in with the teacher and broke off contact with her family, explaining in court documents in 2010 that the teacher and his wife gave her “a safe place to stay.”

Now 25, she is still living with the couple, according to public records.

Neither the teacher nor the daughter responded to e-mail or certified letters, and no one answered the door on a recent weekday.

“I remember the parents feeling helpless,” said Christopher D. Delmonte, police chief in Bridgewater, where the Siracusas live. “I would have felt the same way.”

Laws related to sexual misconduct by educators

Child welfare advocates are pushing for changes in a number of areas to discourage educators from abusing students and then continuing to work with children.

View by area of the law

Age of Consent

The age of consent, typically 16 to 18, is the age at which a person is able to legally consent to sexual activity. But many advocates argue educators should not be able to have sex with high school students of any age.

CONNECTICUT

The age of consent in Connecticut is generally 16, but K-12 school employees are barred from having sex with students who attend the same school, regardless of the student’s age.

MAINE

The age of consent in Maine is generally 16, but it is a crime for K-12 educators to have sex with their students, regardless of the age.

MASSACHUSETTS

The age of consent in Massachusetts is generally 16, even in cases involving school employees.

NEW HAMPSHIRE

The age of consent in New Hampshire is generally 16. But people are also barred from using an authority position to coerce a child under 18 into having sex.

RHODE ISLAND

The age of consent in Rhode Island is generally 16, even in cases involving school employees.

VERMONT

is in an authority position over the teenager.

Comments

Statutes of limitations

States typically set a deadline for filing a civil lawsuit or criminal charges. But advocates say the deadlines pose problems for children who were victims of sex abuse because it can often take them decades to come forward.

CONNECTICUT

Victims who were sexually abused as children must generally file civil suits before they turn 48 (unless the defendant was convicted of first degree sexual assault for the crime). There is no criminal statute of limitations for prosecuting class A felonies, such as aggravated sexual assault of a minor. However, lesser offenses must normally be filed by the time the victim turns 48 or five years from the date the incident is reported to police, whichever is earlier. Tighter deadlines may apply to offenses committed before May 23, 2002, when the law was changed.

MAINE

There is no statute of limitations for abused children to sue either the perpetrator or employer. There is currently no criminal statute of limitations for sex offenses involving victims under 16 (though the deadline may have already passed for some offenses before the law was amended in the 1990s). Sex offenses involving victims 16 or older must generally be prosecuted within three to six years.

MASSACHUSETTS

Victims who were sexually abused as children must generally file civil suits within 35 years after they become adults (by age 53) or within seven years after discovering the harm the abuse inflicted, whichever is later. There is no blanket statute of limitations for criminal prosecuting defendants for sex crimes involving children under 16, but independent corroborating evidence is needed for incidents that happened at least 27 years ago. Tighter deadlines may apply to offenses that occurred prior to Dec. 20, 2006, when the criminal statute of limitations was last changed.

NEW HAMPSHIRE

Victims of sex abuse as children must generally sue perpetrators or employees by the time they turn 30 or within three years after they discover the harm the incident caused, whichever is later. Prosecutors can seek criminal charges for sexual assault against children so long as the victims are under 40. Note: In some cases, different deadlines may apply to older incidents that occurred before the current statutes of limitations were put in place.

RHODE ISLAND

Victims who were sexually abused as children must generally file civil lawsuits against the perpetrators within seven years after they become adults (25) or within seven years after discovering the harm the abuse caused. Victims must generally sue employers within three years after they become adults (21). There is no criminal statute of limitations for many sex crimes, including rape, first degree sexual assault, and child molestation sexual assault.

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been criminally prosecuted for violating the law.

Comments

RHODE ISLAND

If people fail to report abuse of a child under 18 within 24 hours, they could be charged with a misdemeanor, facing up to a year in prison and a \$500 fine. Until recently, some argued the law did not cover sex abuse by school officials - only abuse by parents and guardians - but the legislature recently amended the law to eliminate that concern. State law also requires any person to notify police when they witness an assault or attempted assault.

VERMONT

If educators fail to report abuse of a child under 18, they could face a fine of \$500. If there is an "intent to conceal abuse or neglect," it could result in up to six months of imprisonment or a fine up to \$1,000. There have been criminal charges filed at least twice against school officials for failing to report an incident.

NOTE: These are just brief summaries of complex laws with many nuances. For instance, only certain people are covered by mandatory reporting laws in many states and statutes of limitations are often suspended when people move out of state. Please consult the state laws or regulations in your state for more details.

SOURCES: SOL reform, state departments of education, state child welfare agencies, prosecutors, civil attorneys, and state statutes.

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