



Mandatory Reporting Task Force | Meeting Nine

November 8, 2023, Meeting Recap

Overview

The Mandatory Reporting Task Force is legislatively charged with analyzing the effectiveness of Colorado's mandatory reporting laws in keeping children safe, connecting families with the resources they need, and providing clarity to mandatory reporters. Integral to this analysis, the task force will continue to examine the relationship of these laws to systemic issues and disproportionate impacts on under-resourced communities, communities of color, and people with disabilities.

Focus on the Definition of Abuse and Neglect

During the next few months, the task force will prioritize discussions on assessing Colorado's definition of abuse and neglect. Initially, the plan was to form two subcommittees in the new year, one for the definition of abuse and neglect, and another for warm lines. However, after assessing member input, it was decided to have a task force-wide discussion on the definition first. Starting in January 2024, the task force will dedicate two months solely to the discussion of Colorado's definition of abuse and neglect.

Despite the foundational nature of the definition discussion, the task force emphasizes the need to address the 19 additional directives in the coming year. The goal is to conclude the definition discussion by February 2024 and use it as a foundation for the remaining work, considering the numerous directives yet to be addressed. The task force will self-select into four different subcommittees.

Standards for Reporting

Members discussed the national conversations around the standard for reporting, and how to incorporate it into the task force's work. The focus is on understanding and potentially defining "reasonable cause to suspect" or "reasonable cause to know." The task force aims to explore how Colorado currently defines these concepts and the criteria for triggering the responsibility to report. It is evident that discussions about the definition of abuse and neglect and the standard for reporting will be interconnected.

50-State Review

Prior to the meeting, members were sent three comprehensive research packets produced by the Office of the Colorado Child Protection Ombudsman (CPO), providing legislative history and research for the task force, focusing on a 50-state comparison of definitions related to child abuse and neglect.

The research provided task force members with a foundation to dive into key questions, identify what stands out, what is missing and express any queries. The goal is to ensure that members have the necessary information to actively participate in discussions starting in January. A brief overview of the laws from other states was provided. These examples are not endorsements but opportunities to understand and learn from different approaches. There is no "silver bullet" in any state's statutes, but the components discussed can contribute to the task force's recommendations for a better system in Colorado.

Child Welfare Information Gateway is a federal resource maintained by the U.S. Department of Health and Human Services and the Children's Bureau. It offers comprehensive information on various components of child welfare policies across states, particularly definitions of child abuse and neglect. The resource covers aspects such as physical abuse, neglect, sexual abuse, exploitation, emotional abuse, abandonment, standards for reporting, persons responsible for the child and exceptions.

The research briefs analyzed and distilled information from the standards for reporting sections of each state. One aspect explored is exceptions within definitions of abuse and neglect in state statutes. There are 15 states that include exclusion requirements or special considerations for certain characteristics or populations, ensuring reports are not solely based on specific categories.

A prominent trend involves states specifying that neglect is not determined solely by the socioeconomic status of the person responsible for the child. Arkansas, for instance, clarifies that neglect is not considered if the failure to provide appropriate care is primarily due to financial limitations. Four states specify that unaccompanied or homeless status alone is not sufficient for reporting abuse. Three states, including Colorado, emphasize considering cultural differences when analyzing and deciding on child abuse and neglect reports. Two states, exemplified by Arkansas, state that neglect is not considered if services for relief are unavailable or have not been offered. California and Washington declare that disability status alone is not sufficient for reporting child abuse; there is no presumption of the need for child welfare services based solely on disability. These trends serve as examples for the task force to consider when shaping Colorado's own definitions of abuse and neglect. Bryan suggested the possibility of inviting speakers from states with these policies to provide insights into their effectiveness and implementation.

Breakout Session Highlights

Members broke into two breakout sessions to discuss the research and discuss next steps for addressing the definition of abuse and neglect.

1. ***Differentiation of Poverty and Neglect***: Participants appreciated the need for statutory guidance to distinguish between poverty and neglect, emphasizing that poverty should not be equated with neglect.
2. ***Understanding Cultural Differences***: The group valued the incorporation of cultural differences and child-rearing practices in defining reasonable parental discipline, highlighting the importance of cultural sensitivity.
3. ***Identifying Common Gaps***: Participants identified gaps in other states' legislation, particularly regarding subjective elements, like the definition of reasonable parental discipline.

4. **Focus on Caregiver Capacity:** The group favored assessing the caregiver's capacity, including considerations for caregivers with disabilities, and explored the idea of exceptions for reporters providing community resources instead of rushing to failure-to-report situations.
5. **Supportive Measures:** Discussion revolved around potential exceptions for reporters offering community services and whether there should be an exception for failure-to-report charges when individuals are actively working to address and rectify the reported situation.
6. **Percentage Connection Between Reports and Substantiated Child Abuse:** Participants expressed interest in understanding how different states handle the connection between reported cases and substantiated child abuse situations, with a focus on states showing a strong percentage connection.
7. **Differentiated Response and Impact:** Consideration was given to the impact of differentiated response systems in Colorado on the percentage of reports substantiated and how other states with similar systems manage this.
8. **Universal Reporting vs. Named Professions:** The group wanted information on states with universal reporting requirements compared to those specifying named professions for reporting, exploring whether this distinction affects the number of reports versus substantiated cases.
9. **Clarification of Domestic Violence in Statute:** Participants expressed a need for clarity on how domestic violence is addressed in statute concerning its connection with child abuse and neglect.
10. **Embedding Time Frame for Safety Planning:** The group raised the question of whether other states have embedded a time frame for safety planning in situations related to domestic violence before mandating a report.
11. **Impact of Substantial Changes to Mandatory Reporting Laws:** Participants expressed interest in examining states that have made significant changes to their mandatory reporting laws and understanding the impact of these changes, particularly in terms of improvement in disparities or disproportionality.
12. **State Administered vs. County Administered Distinctions:** The group highlighted the need for insights into how changes to mandatory reporting laws played out in states with different administrative structures, distinguishing between those that are state-administered and county-administered.
13. **Desire for Apples-to-Apples Comparisons:** There was a focus on identifying changes that are comparable and applicable to Colorado, ensuring a nuanced understanding of what might be easily implementable in the state.
14. **Challenges with "Reasonable" Terminology:** The group echoed concerns about the challenges associated with the term "reasonable" in the context of child abuse and neglect reporting laws. There was a shared understanding that the term is difficult to define and may vary based on individual perspectives and cultural backgrounds.
15. **Legal Language Complexity:** Participants emphasized the complexity of legal language, highlighting the potential for ambiguity and the need for clarity, especially considering that many mandatory reporters are not legal professionals.
16. **Criminal Charges and Legal Implications:** The group highlighted the importance of understanding the potential criminal charges or legal consequences associated with mandatory reporting, emphasizing the need to explore both sides of the legal equation.

17. **Concerns About Tension Between the Administration of Social Services and the Justice System:** Some expressed concerns about the confluence between administering social services (relational and voluntary) and the court system (enforcement-oriented) within mandatory reporting laws.
18. **Nuanced and Interconnected Challenges:** Acknowledgment of the nuanced and interconnected nature of challenges, expressing the need for a comprehensive approach rather than focusing on isolated aspects. The discussion reflected on the complexity beyond straightforward changes, such as clarifying that poverty does not equal neglect.
19. **Specificity and Clarity for Effective Training:** A well-crafted statute in informing effective training and providing clarity on potential penalties. The statute serves as a key factor in the district attorney's decision-making process regarding pursuing individuals for not making a report.