Mandatory Reporting Laws in the United States: Impact on Victims of Intimate Partner Violence

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Mandatory Reporting Laws in the United States

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Mandatory Reporting Laws in the United States

Presentation Overview

- History and Types of Mandatory Reporting Laws
- Mandatory Reporting Laws Applied to Cases of Intimate Partner Violence
- Research on Mandatory Reporting: Views of Women
- Legislative Reform: The Kentucky Experience
- Legislative Advocacy: What States Can Do
History of Mandatory Reporting Laws

• Over the past 8 decades, states across the nation have passed legislation to mandate reports of:
  • Specific types of criminal conduct
  • Abuse of vulnerable persons
• The purpose was two-fold:
  • Public or community safety
  • Protection of individual children or adults
Types of Mandatory Reporting Laws

• Four types of mandatory reporting laws passed by states:
  • Injuries associated with the commission of a crime or from use of a weapon;
  • Abuse, neglect, or dependency of children;
  • Abuse, neglect, or exploitation of vulnerable adults; and
  • Domestic violence (*intimate partner violence*)
Crime-Injury Reporting Laws

• Early 1940s, states began enacting legislation to require reports of injuries associated with a crime or resulting from use of a weapon
• By 2016, 46 states had crime-injury reporting laws
• Reports made to statutorily identified law enforcement
• Duty placed on health care professionals or hospitals
Crime-Injury Reporting Laws

• States identify crime broadly or narrowly:
  • Broad application states: e.g., a patient has had physical injury or injuries inflicted by non-accidental means
  • Narrow application states: e.g., injuries resulting from the discharge of a firearm (most common), use of knife, or arson
Crime-Injury Reporting Laws

• How crime-injury reporting laws impact victims of domestic violence
  • Indirectly impacts all cases because domestic violence is a crime and does involve weapons
  • Direct impacts in two crime-injury states that specify that domestic violence must be reported (California, Colorado)
• Three states have specific exceptions for DV and/or sexual assault in their crime-injury reporting laws (New Hampshire, Pennsylvania, Tennessee)
Child and Adult Abuse Reporting Laws

• Concept of mandating reports of abuse against children or vulnerable adults based on 2 principles:
  • Certain persons are unable to protect themselves
  • State government has role in intervention and protection

• History of abuse reporting:
  • Between 1963-1967, all 50 states adopted some form of child protection laws (Meyers, 2008)
  • In 1970s states began passing laws to improve responses to vulnerable adults who by virtue of age or physical/mental disability were unable to care for themselves
Stand-Alone Domestic Violence Reporting Laws

• In late 1970s, the first stand-alone state law passed to apply mandatory reporting to domestic violence (Kentucky)
• Purpose of domestic violence mandatory reporting law:
  • Aid battered women in reaching out for support and protection without the burden of reporting themselves
  • Increase the involvement of law enforcement
  • Send signal to offenders that domestic violence violates a community standard and won’t be tolerated
• Data collection
Stand-Alone Domestic Violence Reporting Laws

• For many years, Kentucky was only stand-alone mandatory reporting state
  • Passed in 1978 with no exceptions
  • Significantly amended in 2017
• Oklahoma passed stand-alone mandatory reporting law for domestic violence in 2005
  • Exceptions if the victim is over 18 and competent
  • Reports are made if a victim requests it
• Physicians must document domestic violence in medical records
Research Finding on the Views of Women

• Caveat: problems with the literature
• Support for MR laws higher among non-abused women
• Some studies find narrow majority (e.g., 55.7%) of abused women support the law, but not against wishes of a patient
• Support the law in application to others, not themselves
• Women who support the law believe it sends a message to the offender and that it would make it easier to get help
• Women who raise concerns about the law say it would make the offender angrier, increase their risk, and/or make offender abuse them more
Research Finding on the Views of Women

• Impact on help-seeking by women
  • Some studies find that 40-60% of women would not disclose violence to a health care provider if they knew that a mandatory reporting law existed (e.g., Gielen et al., 2000; Smith, 2000)
  • Other studies do not report such a dramatic impact
    • In one study of men and women, only 12% of patients said they would be less likely to seek medical care
Why and How Kentucky Changed its Mandatory Reporting Law

• Kentucky law (KRS 209A.030)
  • Why law was created and by whom
  • Reports required by “any person” and all known or suspected cases had to be reported
  • Reports made to adult protective services agency; they, in turn, reported to law enforcement
  • Cabinet required by law to investigate “immediately”
  • Victims were not required to accept services
  • Failure to report was a Class B Misdemeanor
Why and How Kentucky Changed its Mandatory Reporting Law

- Kentucky’s evaluation of its mandatory reporting law
- Stories from the Kentucky DV programs (shelters)
- University of Louisville study
  - Of the 24 women interviewed, 21% said their partner intercepted the initial contact by the social worker and 21% more said their partner found out later
- Cabinet for Health and Family Services
  - The agency policy of sending letters
  - Reporting data from the Cabinet
Why and How Kentucky Changed its Mandatory Reporting Law

- Data from the Cabinet for Health and Family Services (2012)
  - Cabinet received 40,000 reports of DV annually
  - Approximately 50% of DV reports not investigated because Cabinet cannot find/contact the victim
  - Of investigated cases, over half of victims did not want the services of the Cabinet
  - Only small percentage of cases resulted in protective services case being opened
    - E.g., 40 open DV cases and 13,000 open child protection cases
Jordan & Pritchard, 2018

• Need for women’s voices in our analysis led to research study
• Primary study aims:
  • Seek views of women related to mandatory reporting
  • Identify factors that influence women’s opinions
  • Advance research and encourage application of study findings to improve state laws
• Methods
  • Collaboration with KY Coalition Against Domestic Violence
  • 388 women served by 15 domestic violence programs
  • Survey administered by program staff using instructions from research team
• Women in Kentucky’s study
  • 82.7% White; 9% African American (study weakness)
  • Mean age 35 years old (why older than the general population of battered women?)
  • Half (49%) had at least one child living in home
  • Almost 2/3 (59.6%) unemployed; 12.4% on disability
  • Over half (56.2%) had high school diploma; 23.5% had college degree
  • 42.8% were single; 23.2% married but separated
Jordan & Pritchard, 2018

- Survey instrument
  - Demographic information
  - What injuries had they sustained
  - Prior services they had used
  - Prior experiences with reporting law
  - What happened following the report
  - Opinions about mandatory reporting
  - Influence of mandatory reporting on help-seeking
Jordan & Pritchard, 2018

• Results
  • If you knew in advance that the law required a report, would that impact the likelihood you would reach out?
    • 63.6% of women said they would be less likely to disclose abuse to a doctor or nurse
    • 59.7% of women said they would be less likely to disclose abuse to a therapist or counselor
    • 36% (2 in 5) women said they would be less likely to call or go to a domestic violence shelter
  • Overall opinion of mandatory reporting
    • 35.7% of women expressed support for the law
    • 52% preferred changes to the law, including giving a woman the right to refuse to have a report made
Summary of Our Lessons

- Women expressing concerns about the law, including worry about losing children (opening of child protection cases)
- Advocates raising concerns about disempowerment
- Health and mental health professionals concerned about confidentiality
- Law did not result in increased protection services for women
- Law associated with increased risk (e.g., offenders finding out)
- Women less likely to reach out to shelters or to disclose their abuse to doctors/nurses/therapists if they knew about the law
Challenges and Partnerships

• Challenges
  • Splits in advocacy community
  • Appearance of removing protections could generate opposition in legislators

• Partnerships
  • Building a coalition
  • Addressing opponents early
  • Selection of a legislative sponsor
  • Testimony – pairing of advocates and researchers
New Kentucky Law

- Purpose: identify victims; refer them to services; provide protective or therapeutic services to those who wish them
- Includes domestic violence (KRS 403.720(2)(5)) and dating violence (KRS 456.010(2))
- No longer “any person.” Defines “professionals” to mean:
  - a physician, osteopathic physician, coroner, medical examiner, medical resident, medical intern, chiropractor, nurse, dentist, optometrist, emergency medical technician, paramedic, licensed mental health professional, therapist, cabinet employee, child-care personnel, teacher, school personnel, ordained minister or the denominational equivalent, victim advocate, or any organization or agency employing any of these professionals
New Kentucky Law

• Removed mandatory reporting and replaced it with mandatory education and referral
  • Referral to DV Programs and Rape Crisis Centers
  • Information on how to access orders of protection
• Reports to law enforcement **allowed** with permission of victim
• Reports to law enforcement mandatory if death of victim
• Immunity provisions for professionals
• Violation is a Class B misdemeanor
• Stipulates that nothing would interfere with reporting child abuse or abuse of vulnerable adults
What Can States Do?

• Know your state’s statute and how it impacts victims of IPV
• Identify data sources to help make your case
  • National sources (e.g., research literature, CDC, DOJ)
  • State resources for data (e.g., DVPs, hospital data)
  • Develop partnership with a qualified researcher
• Select a statutory model for your state’s legislative reform
  • If you have a crime-injury law, add exceptions for domestic violence (e.g., Pennsylvania)
  • With any type of mandatory reporting law, provide exception if victim requests that no report be made
  • Adding education/referral (e.g., Kentucky, North Dakota)
• Build a coalition of supporters
• Evaluate reforms
Mandatory Reporting of Domestic Violence

• For additional information:
  
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