



FY2019 RECOMMENDATION/FY19-AYIC01 Amend Mandatory Reporting of Institutional Abuse [Statutory]

Status: Implementation Unknown

Actions/Updates

2023 UPDATE (JUNE)

During the FY 2023 Legislative Session, Senate Bill 2023-158 to reauthorize the Colorado Commission on Criminal and Juvenile Justice (CCJJ) was postponed indefinitely on May 7, 2023. Therefore, with the sunset of the Commission, all activities of the CCJJ ceased on June 30, 2023.

No further monitoring of CCJJ recommendations will occur.

2019 UPDATE

This recommendation requires statutory change. The recommendation was approved by the Commission on June 14, 2019 and is first applicable for action during the FY 2020 legislative session.

Description

Amend §19-3-304, C.R.S. to include §19-3-304.1 (Persons Required to Report Institutional Abuse). The statute (§19-3-304, C.R.S.) that obligates certain professionals to report child abuse/neglect to child protective services or law enforcement applies only to youth up to the age of 18. Given the age range in the new definition of institutional abuse (under 21 years of age, pursuant to H.B. 2018-1346), an important gap exists in the protection of youth in facilities who are not covered by the current mandatory reporting statute. The new section would introduce provisions to require mandatory reporting of institutional abuse for youth under 21 years of age.

Agencies Responsible

An extensive list of persons required to report abuse.

Discussion

[The Proposed Statutory Language and additional Recommendation details may be found in the related "Recommendation Text."]

In 2018, the Colorado General Assembly passed House Bill 1346, Concerning child abuse related to youth who are under the continuing jurisdiction of the court in an out-of-home placement when they are younger than 21 years of age. This bill, among other things, mandated

that the Commission on Criminal and Juvenile Justice undertake the following: “To study whether existing criminal statutes address abuse of a child or youth in a facility and issue corresponding recommendations concerning any identified gaps in law that may need to be addressed.”

To address this mandate, the Commission convened a subcommittee of representatives from the following organizations:

- Colorado Department of Human Services, Office of Children, Youth and Families
- Colorado Department of Human Services, Division of Child Welfare, Institutional Abuse Review Team
- Colorado District Attorneys’ Council
- Colorado Office of the Public Defender
- The Office of the Child Protection Ombudsman
- Colorado Department of Public Safety, Division of Criminal Justice

The group discussed the concerns that led to the study mandate, including that while the victims of child abuse are defined as youth ages 16 and younger, individuals may be held in a facility [FOOTNOTE: 1] until their 21st birthday. Efforts to investigate alleged incidents of child abuse or, for older youth, assault, frequently fall to county social services where practices can vary across jurisdictions.

A review of multiple statutes revealed that a significant gap was addressed by House Bill 2018-1346 when it clarified the definition of “institutional abuse” (§19-1-103 (66), C.R.S.) as follows: “ 'Institutional abuse' includes an act or omission that threatens the life, health, or welfare of a child or a person who is younger than twenty-one years of age who is under the continuing jurisdiction of the court pursuant to this Title 19.”

The definition of institutional abuse, combined with a rule change in the Colorado Code of Regulations, Department of Human Services, 12 CCR 2509-1, Volume 7 (7.000.2, Definition Section), that aligned the definition of institutional abuse with the statutory definition, addressed major areas of concern. However, the statute (§19-3-304, C.R.S.) that obligates certain professionals to report child abuse/neglect to child protective services or law enforcement applies only to youth up to the age of 18. Given the age range in the new definition of institutional abuse, an important gap exists in the protection of youth in facilities who are not covered by the current mandatory reporting statute. The new section would introduce provisions to require mandatory reporting of institutional abuse for youth up to 21 years of age to conform with the definition of institutional abuse.

Footnotes

[1] “Facility” as defined in House Bill 2018-1346 means a residential child care facility, specialized group facility, foster care home, family child care home, or any other facility subject to the Colorado Child Care Licensing Act, noncertified kinship care providers that provide care for children with an open child welfare case who are in the legal custody of a county department, or a facility or community placement for a juvenile committed to the custody of the Department of Human Services.