

Senate Children and Family Law Committee

Joshua Schauer 271-3077

HB 243-FN, relative to the penalty for false reports of suspected abuse and neglect made to the division for children, youth, and families.

Hearing Date: April 3, 2025

Time Opened: 10:11 a.m.

Time Closed: 12:09 p.m.

Members of the Committee Present: Senators Abbas, Sullivan and Long

Members of the Committee Absent : None

Bill Analysis: This bill provides that reports of suspected abuse and neglect may include the name of the person making the report and that a report made maliciously or with the intent to cause harm may be subject to civil and criminal penalties. The bill also provides that a person who in their professional capacity is a mandatory reporter of suspected abuse and neglect may be subject to civil liability for the failure to report.

Sponsors:

Rep. Spillane

Rep. DeSimone

Rep. Edwards

Rep. Kuttab

Rep. Notter

Rep. Roy

Rep. Seidel

Rep. Kofalt

Sen. Gannon

Sen. McGough

Who supports the bill: 52 People signed in support of this legislation. For a full list, please contact Joshua Schauer (Joshua.schauer@gc.nh.gov).

Who opposes the bill: 17 People signed in opposition of this legislation. For a full list, please contact Joshua Schauer (Joshua.schauer@gc.nh.gov).

Who is neutral on the bill: 2 People signed in neutral of this legislation. For a full list, please contact Joshua Schauer (Joshua.schauer@gc.nh.gov).

Summary of testimony presented:

Representative Spillane: Rockingham District-2

- Rep Spillane introduced the bill and explained that this bill has been passed by the house for the past 3 terms in the House but has never passed the Senate threshold.

- He said that the language was created by Representative Spillane and the former director of DCYF. There needs to be more consequences for false reporting. However, He said that he still wants to keep the anonymous reporting because it encourages leaving information.
- He said that if a person is a frequent caller into the DCYF intake hotline, they will know there will be consequences if they make false reports.
- Representative Spillane said that because of his position as a Representative, he has been the victim of false reporting on his family, and the police came to his house and investigated and scared his child because somebody called and made a false report about his child and wife.
- He said that his child was asked questions by police in an inappropriate manner and traumatized his son for many months after that incident.
- He stated that false reporting is a form of swatting and used maliciously. There needs to be a penalty for false reporting as is the case for a person pulling the fire alarm with no reason.
- He also added civil penalties into the legislation because he believes it is important to add, so that people and children who have been traumatized may seek a remedy.

Senator Long asked if he knew who falsely reported him.

Representative Spillane said they never found the person that made the false report. If this legislation passes, it will be known that there are consequences.

Senator Abbas asked what is the criminal charge?

Representative Spillane said he believes it is a misdemeanor. There was added language that if a professional mandatory reporter failed to report, a civil case could be made. He said that everybody in New Hampshire is considered a mandated reporter. The term “professional” was added to indicate the people that are in a profession where they work around children or a career that would make them a professional mandated reporter, i.e. Teacher, Doctor, Lawyer.

Senator Long asked if he, hypothetically, was a counselor and somebody says something to him, would he then be considered a professional mandatory reporter? Could I be charged for a false report?

Representative Spillane said it is something you need to do if you are a mandatory reporter and explained that they are required to do it. He also said that failure to report should also be penalized. He wanted to make it clear that there would be consequences to failing to report and false reporting.

Betty Gay: Former Representative

- She said this is an ugly part of our culture, but we need more bills like these to hold people accountable and protect families and children.

- She said that she knows too many people who have been reported falsely because of spite.
- She pointed to Line 10 of the bill and stated that she wants to make it mandatory to identify a person's name and information when calling into the DCYF hotline.
- She also said that more professionals should be able to report online and recommended a system be made to do so. This will discourage people from making false reports or failing to report.

Emily Lawrence: Waypoint Advocacy director

- Explained the role of Waypoint and spoke in opposition to the bill. Their main concern is that there will be a “chilling effect” if people are afraid to report. They want to encourage more reports than less.
- She said that the safety of the child is paramount and the more reports that are called in, even if false, are appreciated and helpful to the agency.
- She said that there are concerns with domestic violence situations and the hotline has been used in revenge situations or with malicious intent but again she prefaced that the more calls they receive, the better for children.
- She stated that in Massachusetts they have gradual penalties for false reporting. First is a fine, second is imprisonment. She explained that it would be a system that the committee should look at to implement for this bill.
- She pointed to the language and said that on Page 1, Line 23, it is vague and confusing. She said it could be made clearer to identify who is a professional reporter.

Senator Abbas stated he understands not wanting to discourage people from reporting but there is a criminal penalty in place already for someone who provides false information in other instances. So why is there a concern about this similar policy being enacted within DCYF?

Emily Lawrence stated they were concerned it will have a chilling effect and would hate to see a decrease in calls due to the fear of criminal penalties. Not reporting because of fear could put the safety of the child at risk.

Senator Abbas said that assuming the mandated reporter is an adult, it is the same in any criminal case, that an adult would be held accountable for false reporting. He asked again why it would be different if DCYF had this implemented?

Emily Lawrence said it is an adult filing a report, but it is concerning that a child doesn't have that opportunity. She stated there was legislation that a restraining order could be filed for a child, but that children are the most vulnerable in our communities.

Senator Sullivan asked isn't the purpose of this bill to protect children and prevent malicious persons from reporting?

Emily Lawrence said that it is an unfortunate rarity that calls result in a “swatting”. She said that in Rep. Spillane’s case, this was a one-time caller, so DCYF took it seriously but in the cases of repeat offenders and frequent callers, those are screened out and are known callers in the agency. She said to Senator Sullivan’s point, there have been calls that result in trauma, but most are screened out but agrees there should be a balance between the two arguments.

Senator Long stated the difference between the DCYF hotline, and a restraining order is we do not know the person who is calling and reporting. He asked if she knew of any states that require a name when calling in?

Emily Lawrence said she was not sure and would get back to the committee.

Senator Long said that DCYF knows who the repeat offenders are, but do they take any action on those people?

Emily Lawrence said she doesn’t believe they take action beyond screening it out and refers to DCYF for more information. She added that she did not believe they had any authority to take action.

Rep. DeSimone: Rockingham District-18

- She started by answering Senator Long’s question of how many states require names when reporting and stated that 16 states require it.
- She added that there are 29 states that currently have penalties for false reporting.
- Rep. DeSimone argued that for every false report, there is an actual report that must be set aside, and the system is not properly set-up to exacerbate that time to a false report.
- She stated that New Hampshire does not brush things off and the State investigates every report and allegation, but because of that, there are children that are forgotten. Gave some examples of children that have been found deceased recently that were never reported or even falsely reported. She added this bill does not affect that, but it does give penalties to those that take away from true cases.

Cassandra Sanchez and Lissa Mascio: Office of the Child Advocate

- They spoke in opposition to the bill. They said the safety is paramount to the children and reporting should be easily accessible. A person should not have to question whether they will be charged if they report.
- They explained that a person calls DCYF intake when reporting and it is screened at the agency. They added that just over 50% of calls were screened out of the system last year because they were considered to be not relevant. This reduces the trauma to families.

- Ms. Sanchez explained that this bill would add another task to the people who screen, and add more to the plate of case workers, who are not trained to make that determination.
- She said it is important to know that just because some people have called repeatedly does not mean they are a false reporter. It is important that when every person calls, they are taken seriously.
- They said that they worry that those calling in could be afraid that it will affect an ongoing legal case. A child may change their story because the person who is making the report will go back and ask more questions of the child, so they do not get reported for false reporting.
- They explained that even if a person suspects abuse or neglect, they want to encourage people to call it in. That is the current law and system, they do not want any conflicting legislation that will make people less likely to call a situation in.

Senator Sullivan asked about the Harvey Montgomery case. She said that 50% of calls were screened out and asked if the bill would actually assist the system in alleviating that caseload?

Cassandra Sanchez said she does not believe that is the case. She added that each call builds into a story, so repeated calls are helpful to those in intake to be able to understand a situation.

Lissa Mascio added that it is important to know that just because they are screened out does not mean they are false. It is the professionals at DCYF that should be making the decisions not other “professional” mandated reporters.

Senator Sullivan inquired about the statement that suspected abuse may not be called in, but the bill was clear that it “it is with malicious intent or intent to harm” so she asked if they agreed that when a person calls in regarding the safety of a child, it is not with malicious intent.

Cassandra Sanchez said she agreed that it is not malicious intent, however she argued that people would interpret it as if they did not have enough information they could be accused of malicious intent. She added that this is where they believe a chilling effect comes in when people don’t know.

Lissa Mascio added that a person who does not have malicious intent will question whether or not they should call something in for fear they may be accused, whereas the people with malicious intent will simply not give their name when calling in. She said this is an unintended consequence.

Senator Abbas said that culpability was mentioned in the testimony and that the term “malicious” is not in the RSA 6.6:42. However when making a false report in other cases, maliciously was changed to knowingly, so he asked if the committee changed the language to knowingly, would the OCA support the legislation?

Lissa Mascio explained there are many terms used through the legal statutes, but two issues arise from that. First, most people will not understand the difference or the specifics of terminology. The second is who will be investigating to find the caller. She said that the New Hampshire DCYF does not investigate intent.

Senator Abbas said that he does not believe DCYF would have to investigate. It would be up to the County attorney's or Attorney General's office. He said this would apply when it is screened in. He does not see a screened-out call being malicious.

Lissa Mascio stated that they have heard cases that the threat of calling in was being used against others. Such as divorce hearings and contentious family court cases.

Cassandra Sanchez questioned that system would play out if implemented. She asked if DCYF workers would then be called in to testify before a court. She said it adds more questions about the day-to-day of caseworkers and unintended consequences.

Senator Abbas said he could understand not wanting to increase workload or waste resources. However the calls that make it through the system that then turn out to be false reports, he said look at all the resources that went into that one problem and then there are no repercussions for someone abusing the system. Where are the consequences for the people that do this intentionally?

Cassandra Sanchez stated that in their oversight role, the OCA is not seeing this played out. Their finding threshold is high. So, the findings reported are very low compared to other states, but they are looking into those situations that require it.

Senator Long asked if the state of New Hampshire has data on who are professionals that are reporting and who is just rank and file reporting?

Cassandra Sanchez said there is data that DCYF maintains the number of calls received from professionals. They keep records of who is calling, how many calls, and how often they are calling. The data is a monthly report, she said the last data they have received is from October of 2024.

Senator Long asked, regarding Rep. Spillane's story, when does the Child Advocate Center (CAC) get involved in these cases? He said he was a little disturbed to hear that police and professionals are interviewing children and in the case of Rep. Spillane, there was no advocacy for the child.

Cassandra Sanchez said that police and professionals ask few and minimal detailed questions to then be able to decide whether to refer the case to CAC. The CAC will then conduct a more thorough investigation. She added there is concern that professionals and adults will not get enough information to report it, so they ask more questions. This can affect the child's story or be traumatic to them.

Stacey Torosian:

- She spoke in support of the legislation.

- She said that she has received malicious attacks and harassment against herself. She has had personal experience of being falsely reported of being violent against her grandchildren.
- She said that her daughter was a drug addict and would call in and falsely report her as being violent against the children.
- Her daughter made a false report and claimed Stacey was duct-taping her granddaughters and beating them. Police came to her door and a DCYF case was opened however, there was no proof or evidence of any abuse.

Susan Larabee: DCYF liaison

- Ms. Laraby took no position on the bill, was there to answer any questions or concerns. She expressed that the paramount concern is the child's safety and wants to make clear that every adult in New Hampshire is a mandatory reporter.
- She said that it goes above and beyond any immunity that a priest, counselor etc... may have. Everybody in the state must report any abuse or negligence of a child.
- She stated that RSA 169:C 39 already provides a criminal penalty for false reporting in other scenarios. She said it has been on the books since 1979.
- She referred to past testimony and tried to answer some previous questions. She pointed to RSA 626:2 which is in reference to culpable states and different mental states. There are criminal penalties for false reporting of law enforcement. This could be a language solution for all parties and does not have a "chilling effect".
- There is a structured decision making (SDM) system for DCYF intake when calls are received.
- She said that never should a police officer should be asking children to do inappropriate things or asking inappropriate questions which is included in their training not to do, in reference to Rep. Spillane's testimony.
- She addressed that as citizens of New Hampshire, there are already criminal penalties for people who fail to report in RSA section 169.

Senator Abbas said that it should say knowingly and agreed with Ms. Laraby. He asked what the scope of this is? For the application of this, should it be to the person making the report or filing the report?

Susan Larabee went into the legality of whom is responsible for what kind of reporting and said that "what is considered a false report" is determined by central intake and she said that carving out the term "professional" makes it difficult for a legal argument. She added that she may have misunderstood the question and if he could clarify.

Senator Abbas stated that nobody wants people filing false reports, but the legislation as he read it, is the person making the false report should be penalized. So he clarified that if a person says something to a friend or colleague and then that person, who was told, is the one filing the report, then the person filing the report is being charged, not the one making the initial report. He asked if they were all interpreting it the same way?

Susan Larabee said that it is difficult to criminally prosecute then. It is hard to prove which person is making the report. She expressed that's the point she is making. The language is ambiguous and unclear of what is "knowingly".

Senator Abbas wanted to clarify again. He said if they add the term knowingly, the person filing it is not culpable but the person who intentionally makes the false claim will be the one who is liable.

Senator Larrabee said she understands and that the person who knowingly makes the false claim but not necessarily the one who files the claim, is the one who shall be criminal charged. However, she is not sure of how that would go about in reality.

Senator Long asked of the number of calls received, half were screened in. Does DCYF know what would be suspected of false reporting?

Susan Larabee said that she doesn't know that answer, but wanted to clarify that just because it is screened out does not mean it is a false report.

Senator Long asked if they could still be screened in, if there was malicious intent or a false report?

Susan Larabee said yes and then it will go to the local district for assessment and an investigation.

Senator Long asked, with respect to contact information, if it was public?

Susan Larabee said that no because there is a statute "reporter not allowed", which means the agency keeps information confidential. At the time of the call, the person calling is made aware that it is confidential. However, if a case is started, their name made be made available to police investigators.

Senator Long asked when a person calls in, if they are still asked to give their name and number and if the agency keeps it confidential.

Susan Larabee said that is correct unless a court order says something different later in the process.

Frank Kurland: North Hampton

- Spoke about Stacey Torosian's, his girlfriend, testimony and the police investigation that took place about their situation.
- He said that a false police report was filed but it had nothing to do with the child and therefore no charges could be made.

- He said this is a type of child-abuse and it should be penalized that way for being falsely reported.
- He talked about the children thriving under the grandparents and activities they would do when with them, but when the mother took them, they would be malnourished and neglected.

Kate Shea:

- Expressed her support for the bill.
- She said that resources are scarce and should be used properly. This is a legal loophole with a lack of penalties to those who abuse the system with intent to harm others.
- She explained that her ex-husband used malicious intent to falsely accuse and report her. Which otherwise should not have happened if this legislation was in place. In family court, there is nothing you can do because of this loophole.
- She said there is emotional trauma that is passed onto kids when a false report is made and police come to the family's home in the night or seeing their parent/s taken into custody for false reports.

Robert Tangway:

- Spoke in opposition to the bill but said that is a step in the right direction.
- He stated that most children don't get abused and that abuse is rare. He claimed that the lobbyists are profiting from information that is misleading.
- He said that the bill should not pass as written.
- He said that children know what's going on and should not be harassed. There should not be any "mandatory" reporters. He claimed it is unconstitutional to mandate people to report.

Rep. Potenza:

- She said that the law does not protect people who are being reported against falsely. There is a lot of money that is put into legal fees and protection of children after a report is made maliciously.
- She referred to a situation where a constituent called her about and explained the story of the father and son that had a report filed falsely against them and the child is scared. The father can take no action against the person that called it in and scared his child.

Rep. Horrigan:

- Spoke in Opposition to the bill.
- He talked about the intricate court system and that this bill does nothing to solve the problem, except create more questions and work for the agency.

Gail Drobat:

- Ms. Drobat spoke in support of the bill. She said there is too much potential for abuse of children in New Hampshire.
- She said they need help in the legislature against abuse and neglect as well as false reporting.

JS
Date Hearing Report completed: April 11, 2025