

# THE WALL STREET JOURNAL.

April 2, 1984

## Overreach of the Guardian State

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When the Federal Child Abuse Prevention and Treatment Act was renewed recently by the House of Representatives, an extension of its provisions to cover "Baby Doe" cases drew attention. But the act itself is flawed and demands more than a cursory nod.

House members, who voted 396-4 to renew what is also known as the Mondale Act (the sponsor was then a senator from Minnesota), made no effort to determine how well the federal child-abuse program is accomplishing its basic purpose -- to protect endangered children. If they had done so, they would have been shocked -- and, one hopes, they would have demanded major changes in the act or its administration.

First passed in 1974, the act makes special grants available to states that have laws that require, under threat of criminal penalties, the reporting of suspected physical abuse, sexual abuse and exploitation, physical neglect and emotional maltreatment. More than 45 states have enacted broadened reporting laws to obtain these grants. As a result, each year, more than 1.3 million children are reported to the authorities as suspected victims of child abuse and neglect.

Increased reporting and specialized child-protective agencies have saved many thousands of children from death and serious injury. In New York state, for example, there has been a 50% reduction in child fatalities, from about 200 a year to under 100.

Unfortunately, this added protection for abused and neglected children has been purchased at the price of an enormous increase in the level of government intervention into private family matters, much of which appears to be unwarranted and some of which is demonstrably harmful to the children and families involved.

State child-abuse laws, patterned to meet federal requirements, are vague and too broad. Typical legislation authorizes government intervention with conclusive phrases such as: when the child's "environment is injurious to his welfare," when the parents are "unfit to properly care for such child" or, the blatantly tautological, when the child is suffering from "abuse or neglect." Such phraseology sets no limits on intervention and provides no guidelines for decision making.

Consequently, more than 60% of all reports of suspected child maltreatment turn out to be "unfounded." Unfortunately, this determination -- involving more than 750,000 children each year -- usually is made after an unavoidably traumatic investigation in which a child-protective

agency questions friends, relatives and neighbors, as well as schoolteachers, day-care personnel, doctors, clergymen and others who know the family. Besides being unfair to parents, such overreporting places a heavy burden on chronically understaffed child-protective agencies, which are then unable to respond promptly and effectively when children are in serious danger.

Even after this extensive screening, child-protective agencies still keep more than 400,000 families at any one time under home supervision and compel them to accept treatment. However, a recent study conducted for the National Center on Child Abuse and Neglect -- itself a product of the Mondale Act -- found that, in about half of these cases, the parents had never actually abused or neglected their children.

Furthermore, there has also been a dramatic increase in the number of children taken away from their parents and placed in foster care, from about 75,000 in 1963 to more than 300,000 in 1980 (cumulative figures). About half of these children are in care for at least two years, and about 30% for more than six years. And yet, according to data collected for the federal government by the American Humane Association, up to half of these children were in no immediate danger at home, and could have been safely left there.

This high level of apparently unnecessary state intervention might be acceptable if it enabled child-protective agencies to fulfill their basic mission of protecting endangered children. Unfortunately, it does not.

Professionals -- physicians, nurses, teachers, social workers, child-care workers and police officers -- fail to report more than half of the maltreated children whom they see. And it is not just minor cases that are not reported. According to one study, in 1979 more than 50,000 children with observable injuries severe enough to require hospitalization were not reported.

Non-reporting can be fatal to children. A study in Texas revealed that during a three-year period more than 40% of the approximately 270 children who died as a result of maltreatment had not been reported to the authorities -- even though they were being seen by an agency at the time of death or had been seen within the past year.

Sadly, being reported to the authorities does not assure a child's safety. Studies in a number of states have shown that about 25% of all child fatalities attributed to abuse or neglect involve children already reported to a child-protective agency. Tens of thousands of other children receive serious injuries short of death while under child-protective supervision.

These gaps in protection are the direct result of the vague state laws that have been passed in response to the federal act. By flooding the system with inappropriate cases, these laws have made it less likely that children in real danger will receive the protection they so desperately need. Overwhelmed by staggering caseloads, decision makers often are insensitive to the obvious warning signals of immediate and serious danger. One study of child-abuse fatalities, for example, described how: "In two of the cases, siblings of the victims had died previously. . . . In

one family, two siblings had died mysterious deaths that were undiagnosed. In another family, a twin had died previously of abuse."

The current provisions of the Federal Child Abuse Act encourage state programs that seek the reporting of ever-greater numbers of children -- without regard to the appropriateness of reports. While this approach may have been justified when the act was first passed in 1974, the inexorable working of more reporting campaigns will only exacerbate current problems. As reporting increases, the number of children and parents being helped will increase, but so too will the number being unnecessarily and often harmfully processed through the system. Unless something is done to break this ironic equation, the continued pursuit of full reporting will be a cruel trade-off -- to the community as well as to the children and parents involved.

The emotionally charged debate over the "Baby Doe" provisions certainly helped divert attention from the underlying act and the problems it has created. But, more importantly, the proponents of the federal child-abuse legislation -- generally groups and individuals who receive grants under the program -- were able to equate being against the bill with being in favor of child abuse. In the short run, this gross oversimplification gains a vote of 396-4. In the long run, though, it promises to allow already severe problems to worsen, thereby threatening to undermine continued public and political support for child-protective efforts.

Top priority must be given to reducing the simultaneous over and under intervention now plaguing child-protective efforts. The Federal Child Abuse Act should be amended to encourage states to develop laws, reporting campaigns and training materials for social workers that are more specific about when intervention is needed to protect abused children -- and when it is not needed. In the next few weeks, we shall see whether the Senate gives the act the careful reconsideration that it requires.

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