
Defining Child Exposure to Domestic Violence as Neglect: Minnesota's Difficult Experience

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Policymakers are increasingly focusing on children exposed to domestic violence. The 1999 Minnesota legislature amended the definition of child neglect to include a child's exposure to family violence. What was initially seen as a simple change to bring more attention to children exposed to domestic violence resulted in great turmoil across Minnesota's county-run child protection system. Referrals to county child protection agencies expanded rapidly in the months following the law change, and no new state funding was provided to implement the legislation. A coalition of child welfare administrators and battered women's advocates successfully lobbied for the repeal of this change in definition. Many were dissatisfied with both the impact of the legislation and the fact that exposed children and their families were left without badly needed services. This article reconstructs how Minnesota's legislature made this change, its consequences, and the lessons that may be drawn from this experience.

KEY WORDS: *child protection; children; domestic violence; neglect*

In 1999, the Minnesota state legislature amended the definition of child neglect to include a child's exposure to family violence. What was seen initially as a simple change brought about great turmoil in Minnesota's child protective services. This article reconstructs how this legislative change occurred, what resulted from the changed neglect definition, and what lessons may be drawn from Minnesota's difficult experience.

The Minnesota legislature's actions must be placed in the context of a larger national examination of children's exposure to adult domestic violence that was underway in 1999 and continues today (see Weithorn, 2001). The National Council of Juvenile and Family Court Judges (NCJFCJ), along with the federal government and private foundations, had undertaken a national effort to improve the response of the courts, domestic violence programs, and child welfare agencies to families in which both adult domestic violence and child maltreatment or exposure to violence were occurring (NCJFCJ, 1998, 1999). In a related effort, the National Association of Public Child Welfare Administrators (2003) published national guidelines for responding to children exposed to domestic

violence. Furthermore, the National Conference of State Legislatures had widely distributed a number of magazine articles, briefs, and a book that addressed this issue to state legislators (see Walton, 2003a, 2003b). These national organizations undertook this work in part as a result of a growing body of research revealing that almost half of the families in which child maltreatment occurs also show evidence of domestic violence (Appel & Holden, 1998; Edleson, 1999b; McGuigan & Pratt, 2001; O'Leary, Slep, & O'Leary, 2000) and that children exposed to adult domestic violence may experience subsequent negative developmental outcomes (Edleson, 1999a; Fantuzzo & Mohr, 1999; Margolin, 1998; Onyskiw, 2003; Rossman, 2001). The concern raised by all of these efforts generated great interest among policymakers and program planners across the country and resulted in a number of federally and privately funded demonstration projects (see <http://www.thegreenbook.info>).

It was in this social and political environment that individual legislators took leadership in the Minnesota legislature, successfully seeking to amend the definition of child neglect to add children who were exposed to violence.

MINNESOTA'S EXPERIENCE

Several committees of the 1999 Minnesota legislature chose the state's child welfare system as a focus of change during that session. As a part of this focus and backed by bipartisan support, legislators identified the goal of improving child protective services statewide. State Senator Jane Ranum (D-Minneapolis), a strong advocate for children and then chair of the state senate Judiciary Committee, made improvements to this system her top priority that year. As a part of updating child protective services, Ranum, along with state Senator Sheila Kiscaden (R-Rochester) and other legislators visited several cities to learn more about programs available across the country. For example, some legislators visited St. Louis to examine Missouri's differential response system, and in Detroit, legislators studied Michigan's "Families First" family preservation program as well as the use of "open courts," which allow public access to proceedings in juvenile courts. At the time, Minnesota primarily provided one avenue through child protective services, and the courts ruled on child neglect and abuse cases in closed and confidential hearings. The legislature enacted state guidelines in 1999 that authorized county child protection agencies to develop differential or, as the legislation called it, an "alternative response" to child maltreatment reports. The legislation permitted voluntary assessments and services to support families where the risk to children was assessed to be lower than those receiving traditional child welfare services. This effort was consistent with a growing trend in child welfare reform across the country aimed at providing differential or alternative pathways through the child protection system for children at different levels of risk (see Schene, 2001; Waldfogel, 1998).

The legislature passed permissive legislation allowing alternative response pilot projects. The state Department of Human Services reallocated federal funds and combined them with a grant from the McKnight Foundation to support a set of pilot projects in several Minnesota counties. Twenty of Minnesota's 87 counties (accounting for 70 percent of all child maltreatment reports in Minnesota) eventually mounted pilot alternative response programs. Although the supporting legislation passed during the 1999 legislative session, alternative response pilot projects did not begin until the fall of 2000.

Examination of Child Exposure in Minnesota

Improvement of child protective services and implementation of alternative response pilot programs were the backdrop for the 1999 legislative session in which the state Senate Judiciary Committee heard testimony from academic scholars on the effects of exposure to adult domestic violence on child development. Senator Ranum initially drafted new language regarding the definition of neglect to guarantee that alternative response programs would respond to children exposed to domestic violence. Ranum and Kiscaden worked together on the change in their respective Senate Judiciary and Health and Human Services Committees. This effort to expand the definition of neglect was seen as part of the larger changes in child protective services being discussed in the legislative session. Those working on the definition change intended that children exposed to adult domestic violence would likely be recipients of the soon-to-be developed alternative response programs in child protection. Thus, no additional funding was allocated to accommodate any costs resulting from increased referrals due to the newly expanded definition of neglect.

The final wording changing the definition of child neglect was embedded in the state senate's version of the 1999 Health and Human Services Omnibus Bill. Similar language did not, however, appear in the House's version of the bill. The definition change was therefore the topic of discussions in a conference committee between the Minnesota House and Senate. Senator Kiscaden took charge of finding a compromise with the House on the new neglect language. The final language that was signed into law was as follows:

- (7) "medical neglect" as defined in section 260.015, subdivision 2a, clause (5);
- (8) that the parent or other person responsible for the care of the child: (i) engages in violent behavior that demonstrates a disregard for the well being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury, or emotional damage to the child; (ii) engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4; (iii) intentionally inflicts or attempts to inflict bodily harm against a family or household member, as defined in

section 518B.01, subdivision 2, that is within sight or sound of the child; or (iv) subjects the child to ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well-being of the child. (S.F. 2225, 1999 Leg., 81st Sess. [Minnesota Department of Human Services, 1999])

Despite the fact that this neglect definition added a new category of children to the child welfare caseload, the language change "was seen as a modest expansion" of current practice and policy (personal communication with S. Kiscaden, Minnesota state senator, May 3, 2004). The legislators involved thought the new language would not drastically affect child protective services. Also, the insertion of the change occurred almost at the end of the session. Although some legislators may have known about the change, county social services, the domestic violence prevention community, and the public at large did not. There were no public hearings and no discussions about the significance of the change outside of the legislature, presumably because the legislators thought that they were largely changing language and not practice. The intent of the legislation was to make sure that the counties were reaching all those children that the legislators felt they should be reaching.

Before 1999, children exposed to adult domestic violence were inconsistently reported to child protective services in the state and were mostly invisible. Indeed, county agencies had responded to few of these children unless there were other risk factors present, such as evidence of direct physical child abuse or some other type of imminent risk, such as the presence of weapons. A county child protection agency director and a leader in efforts to introduce an alternative response in child protection noted that because of the timing of the legislation, the lack of hearings, and the changes it made, the legislation was "obscure, came in late [and] caught most people by surprise" (personal communication with R. Sawyer, director of Olmsted County Child & Family Services, Rochester, Minnesota, February 6, 2004).

Expanded Definition of Neglect Creates Turmoil

County child protective services did not expect the 1999 legislative session to result in many major

changes to their practices other than the new alternative response effort. Once the legislators affirmed the 300-page Omnibus Bill and it became law, government agencies sifted through the bill to see what changes had resulted. The Minnesota Department of Human Services (1999) then published a bulletin instructing county governments and mandated reporters on the expanded definition of neglect. To their surprise, counties faced a daunting task in implementing the new procedures that resulted from the expansion of the neglect definition.

Counties struggled with the new reporting standards. Child protection staff members reported that they knew of some children exposed to domestic violence before the definitional change but were most often unable to intervene because exposure to domestic violence did not meet county definitions of child maltreatment (personal communication with D. Thompson, project manager, Minnesota Department of Human Services, February 5, 2004).

With the new language, the state suddenly mandated that a range of professionals report every child suspected to have witnessed adult domestic violence. A survey of 52 Minnesota counties estimated that the language change would generate 9,101 new domestic violence exposure reports to be screened by child protection agencies each year (Minnesota Association of County Social Service Administrators, 2000). Minnesota responds to a total of approximately 17,000 reports of child maltreatment annually (see <http://www.dhs.state.mn.us>). If all of these new reports were accepted, it would have represented a greater than 50 percent increase statewide, with some counties experiencing much higher increases.

Exact figures are not available, but the change in definition resulted in rapidly rising child maltreatment reports across Minnesota. By adding a large new category of children to those who were neglected, the legislators had unknowingly increased the number of children who would be subject to mandatory reporting. This relatively simple change resulted in dramatically increasing workloads in most Minnesota county child protection agencies. Although the legislators thought that the language change would merely clarify existing practices, many county agencies suddenly faced huge numbers of newly defined neglected children being reported to them. There were two parts to this change that raised particular concerns among

county social service administrators. First, current Minnesota law requires an immediate response to all child maltreatment reports, but response time can be up to three days for less serious reports. Second, there was no specific funding appropriated other than those for alternative response efforts to implement this new model in pilot counties. The Minnesota Association of County Social Service Administrators (2000) estimated it would cost more than \$10 million to screen, assess, and provide services to these newly referred children and their families, \$19 million for the purchase of adequate community-based services for them, and another \$1.4 million to train law enforcement and county attorneys about the new law. Social service administrators argued that the change represented an "unfunded mandate" by the state legislature. Child protection workers already felt their agencies were inadequately supported, and the large increase of reports threatened to stretch some counties beyond their capacity to respond. County agencies and the field as a whole did not yet have adequate strategies to differentiate those factors in exposure to adult domestic violence that created more or less risk for a child. Administrators and workers alike also began to fear that they would have inadequate resources left to properly serve the families of children experiencing more severe forms of physical and sexual maltreatment. In essence, many more children not requiring the full force of the child protection agency would be screened and investigated, but fewer needing the county's services would receive them. As current and former child protection workers explained, there was a wide range of children swept up by the legislation, some of whom were very much in need of help, and others who did not need it.

The expanded reporting requirements also raised concerns among battered women's advocates. They feared that child protective services would use methods that would blame more mothers for their male partners' violent behavior, substantiating them for "failure to protect" (see Magen, 1999). In fact, in the midst of implementing the reporting requirements, one county began to use per diem reimbursement requests from local shelters to identify women entering local shelters with children and then referred these mothers to the local child protection agency for fuller screening and investigation. This county action went well beyond what was envisioned by the definitional change and be-

gan to create fear among women that going to a shelter would result in removal of their children from their custody. Although only a small percentage of reports to child protective services result in removal of children from their parents' custody (English, Edleson, & Herrick, 2005; Kohl, Edleson, English, & Barth, 2005), many mothers and community members believe otherwise.

The new efforts to create a system of alternative response in child protective service agencies could have helped to solve some of problems occurring in 1999. Unfortunately, the effort was only in its planning stage. Alternative response had not yet even been implemented in pilot counties. Without the benefits of a differential or alternative response, county child protective services had to treat all reports of child maltreatment in the same manner, regardless of their particular circumstances and experiences.

In the end, the large increase in reports and then children entering the system overwhelmed many counties and their social service agencies. Not all counties experienced severe capacity difficulties, however. Olmsted County, in which the Mayo Clinic is headquartered and a large IBM facility is located, stands out as an exception. After the legislature changed the neglect definition, agency leaders in Olmsted County realized that they had not been addressing the issue of children exposed to domestic violence. To remedy the problem, Olmsted social service administrators and county board members collaborated to reallocate resources so that when the numbers of reported neglect grew, the increase did not overwhelm its child welfare programs and resources.

Olmsted County has been a leader in Minnesota in pursuing a differential or alternative response model in child protection and has incorporated a specific response to children exposed to domestic violence in this model. The county built its model based on the experiences in Massachusetts (see Whitney & Davis, 1999) and other states where hiring domestic violence specialists within the child protection system was pioneered. First, the county developed a distinct domestic violence intervention team in the child protection agency consisting of seven social workers from both the county and private nonprofit organizations. Screenings and investigations include questions regarding exposure to domestic violence. Cases in which domestic violence is identified are referred to the special

domestic violence team, where staff members have backgrounds in domestic violence as advocates and service providers. Between 15 percent and 18 percent of all referrals to Olmsted's child protection agency are identified as showing evidence of adult domestic violence. Staff members work with three goals in mind: (1) increase mother and child safety; (2) respect the authority and autonomy of the mother; and (3) hold the victimizer and not the victim accountable. Child protective personnel work with family members to develop safety plans and provide support or change-oriented services for all family members. Domestic violence unit staff members are careful to develop separate safety plans for victims and perpetrators. They draw widely on community networks, and when there is a gap in services, the county has contracted with local organizations to provide needed services (Sawyer & Lohrbach, 2005).

Unlikely Partners Call for a Repeal

Despite the success in Olmsted County, most other Minnesota counties could not handle the increase in reported cases of neglect. Because of their mutual misgivings about the neglect definition change, county social services administrators and the battered women's advocacy community became unlikely partners in a push to get the new language repealed. Both groups felt that the new definition could have had some positive effects, but unaccompanied by funding, the change created more problems than it solved. Many sensed that passing legislation without funding allowed legislators to feel as if they were dealing with a problem without really doing anything substantial to stem the tide against actual neglect of children. Rather than solving the problem, the new language seemed to magnify it.

The many new cases of child neglect highlighted the other issues inherent in the relationship between child protection and adult victims. Because the language change defined exposed children as neglected, it implicated the victim of the abuse as well as the perpetrator. The state in essence could hold the victim responsible for the harm done to the exposed child. Similarly there was a "concern expressed by DV [domestic violence] advocates, with some legitimacy, that the child protection system did not fully appreciate the circumstances of the adult victim, and trust in their judgment to keep their kids safe. There was a fear that CPS didn't have a deep enough understanding of the elements/

characteristics of DV" (personal communication with D. Thompson, February 5, 2004).

The child welfare and battered women's advocacy communities began to discuss the implications of the definition change for children and female victims. They worked with the Minnesota Association of County Social Service Administrators and other community organizations to draft replacement language and to develop protocol for child protective services to use in assessing and intervening in cases of children exposed to adult domestic violence. For example, the Minnesota Department of Human Services (2000) convened a statewide task force that produced new guidelines for such cases. These protocols were then distributed widely and presented in a series of statewide training workshops for child protection workers.

Repeal of the Definition Change

In 2000, the Minnesota legislature essentially repealed the 1999 changes to the definition of child neglect. It first replaced earlier legislation with a revised definition as a result of discussions mentioned earlier. Specifically, it states:

Sec. 2. [626.5552] [CHILD EXPOSED TO DOMESTIC VIOLENCE.]

(a) A child is considered to have been exposed to domestic violence when: (1) a parent or other person responsible for the care of the child engages in violent behavior that imminently or seriously endangers the child's physical or mental health; (2) a parent or other person responsible for the care of the child engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4; (3) the child has witnessed repeated incidents of domestic violence as defined in section 518B.01; or (4) a parent or other person responsible for the care of the child engages in chronic and severe use of alcohol or a controlled substance that adversely affects the child's basic needs and safety.

(b) In determining the protective action to take and the services to be offered to the child and family when a child has been exposed to domestic violence, the local welfare agency shall consider the safety and well-being of the child and the safety of a parent who is a victim of domestic violence. In determining whether there

is a need for child protective services, the local welfare agency shall take into account the presence of protective factors in the child's environment. These factors include, but are not limited to: (1) whether the child is or has been the victim of physical abuse, sexual abuse, or neglect as defined in section 626.556, subdivision 2; (2) the age of the child; (3) the length of time since an incident of being exposed to domestic violence; (4) the child's relationship to the parent and the perpetrator of domestic violence; and (5) whether steps are or have been taken to exclude the abuser from the home of the child or the adult victim sought protective services such as shelters, counseling, or advocacy services, legal recourse, or other remedies. (S.F.3410, 2000 Leg., 82nd Legislative Sess. [Minnesota Department of Human Services, 2000])

The new statutory language on child neglect maintained some of the safeguards for children envisioned by Senators Ranum, Kiscaden, and others in 1999. It incorporated guidelines based on the available research knowledge and aimed to avoid the negative effects that the earlier definition change had on the social service network for children and their battered mothers.

The 1999 changes were refined in the 2000 session, but the state legislature also required that the new definition only be implemented on July 1, 2001, subject to adequate funding. Lawmakers asked then-governor Jesse Ventura to return the following year with a proposal to fund the implementation of the change. Unfortunately, no new funding proposals were forthcoming, and the legislation has never been implemented.

Without funding for the new language, Minnesota no longer considers children exposed to adult domestic violence to be neglected children. Those required by law to report maltreated children to their county are no longer required to report children exposed to domestic violence. Certainly, some exposed children may also be physically abused or at imminent risk of harm and will be reported to child protective services for intervention, but many others may also benefit from supportive community services (see Edleson, 2004).

Again Olmsted County stands out as an exception in its response to the repeal of the neglect definition changes. The Olmsted County Attorney ruled that children exposed to adult domestic vio-

lence should be reported to child protection based on existing statutes regarding endangerment. Children exposed to domestic violence in Olmsted County still fall under mandatory reporting requirements, and the county's child protection agency continues to devote resources and provide services to these children with the support of the county board. Other counties in Minnesota, lacking the resources available to Olmsted County, have not been as successful in continuing a response to children exposed to adult domestic violence.

IMPLICATIONS OF MINNESOTA'S EXPERIENCE

This story really has two endings, both of which are frustrating. In the first ending, the community responded to the expanded definition of neglect by reporting many thousands of Minnesota children exposed to domestic violence. Many of these children were unlikely to have been identified previously. Unfortunately, the capacity of child protective services to respond was greatly strained, resulting in more identification and screening but probably fewer services to those most in need. In the second ending, almost all Minnesota counties decided to drop the requirement for reporting exposed children to child protective services. The regrettable part of this outcome is that many thousands of children who were earlier identified are no longer visible in the system and not likely to receive needed services.

Neither of these outcomes is desirable. However, they point to some important lessons that can be drawn from Minnesota's difficult experience. First, even simple changes in definitions or terms may have dramatic, unintended negative consequences. Simple definitional changes have consequences for use of services, and these should be considered carefully. These well-intended changes brought about a crisis in the very services they were meant to positively influence. A second lesson is that changes in legal definitions may not be the best solution for children and their families in this situation. A definitional change may raise the awareness of judges, child protection workers, and mandated referrers, but these changes cannot be made in isolation. This leads to a third lesson, that it is important to put services into place **before** the population using those services is vastly expanded. This may be the hardest one to achieve. It may be that the demand must be in place before the resources will be forthcoming.

This was certainly the case in Olmsted County, and that county's response was nevertheless encouraging (Sawyer & Lohrbach, 2005).

Unfortunately, in most other Minnesota counties even the clear need for services evident in the numbers of children being reported did not move county or state governments to provide additional resources. The result was an overwhelmed and stressed child protection system. Elsewhere we argue that perhaps the child protection system is not the appropriate referral for many of these children (Edleson, 2004). Certainly some exposed children should be referred to child protective services, but such involvement has many potential drawbacks for battered mothers and their children (see Magen, 1999). Many exposed children and their families may more appropriately be served in voluntary community-based services (Edleson, 2004).

Weithorn's (2001) review of North American laws on children exposed to domestic violence revealed that six of 10 Canadian provinces have defined child exposure to adult domestic violence as child maltreatment, yet it appears that there is virtually no enforcement of those laws and very little case law despite these definitions having been on the books for 10 to 22 years. A promising alternative that Weithorn described is the experience of Alaska—and perhaps this should be posed as a third ending that would have made the outcome of Minnesota's effort much more successful. A task force appointed by Alaska's governor developed a package of legislative changes that were put into place in 1998. One change defined child exposure to domestic violence as maltreatment if it resulted in substantial risk of mental injury. Whereas Minnesota defined all forms of exposure as per se child maltreatment, Alaska required a showing of substantial risk before finding maltreatment. The effort did not stop at definition change, however. It went much further to also legislate a philosophy of best practices in child welfare when intervention in such cases occurs. The legislation promoted keeping the child with the nonabusive parent, mandated safety services not just for children but also for adult victims, and made clear that if a family member is removed from the home, it should be the perpetrator of violence. The legislation also required the child protection system to adopt new assessment and intervention protocols that reflect this philosophy and to develop extensive training for child protection workers. In addition, it encour-

aged collaboration with domestic violence prevention programs. Alaska also exempted battered women's advocates and sexual assault crisis workers from being required to report to child protection when children and their mothers were involved in safety services, such as a shelter and advocacy. Additional law changes exempted battered mothers who fled for safety from findings of child abandonment, and another, later change increased sentencing consequences for convicted perpetrators when children were present during a domestic assault. Finally, the state put substantial resources into training child protection workers to implement the legislated changes (Weithorn, 2001). Perhaps Alaska's experience most closely resembles that of Minnesota's Olmsted County, in that definitional changes were accompanied by a substantial change in practice that was supported with adequate resources for implementation.

Some of Alaska's approaches are also evident in the best practices guidelines incorporated into the National Council of Juvenile and Family Court Judges' "Greenbook," which calls for multilevel change and response to exposed children and is being tested in numerous demonstration projects (NCJFCJ, 1999; see also <http://www.thegreenbook.info>).

Minnesota's experience is instructive in the search for positive societal responses to children who are living with adult domestic violence. The legislators who sought to take the lead on this issue were genuinely concerned with the plight of these children but rushed to change the laws without adequately considering the full range of possible changes. The refinements made in the 2000 legislative session were positive and went a long way to more clearly define those children who should be referred to child protective services. Independently, the Minnesota Department of Human Services developed practice guidelines and disseminated them across the state. Unfortunately, Minnesota has not found a way to support a comprehensive implementation of these ideas, as did Alaska. Perhaps a more careful, fully developed alternative such as those in Alaska and Olmsted County, Minnesota, and proposed as national best practices by NCJFCJ should be the final chapter to this story. **SW**

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Original manuscript received October 19, 2004
 Final revision received May 9, 2005
 Accepted August 15, 2005

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