ABSTRACT

The very nature of emotional child abuse makes it difficult to detect and report. Nevertheless, scholars and professionals in the field of child welfare have identified emotional abuse as being equally detrimental to children as physical abuse and neglect. Many states, including Utah, have unclear definitions of emotional abuse. The purpose of this study is to interpret how Utah has used its statute on emotional abuse in the court system and whether the current definition of emotional child abuse has given Utah’s courts enough information and direction to prosecute those who emotionally abuse children. Data was collected by researching the legislative history of the statute, compiling cases of emotional abuse that have come before the Utah Court of Appeals, and interviewing professionals who have dealt with cases of emotional abuse in Utah. This study concludes that although child emotional maltreatment, once reported, is being adequately treated therapeutically when cases involve other types of abuse, it is not being addressed adequately in the court system when emotional abuse is solely in question. There is a need for more direction in the legal community in defining and responding to emotional child abuse.

INTRODUCTION

Many professionals argue that emotional child abuse is underreported due to a lack of a clear definition of what constitutes emotional maltreatment (Hamarram, Pope, & Czaia, 2002; McCoy & Keen, 2009). Emotional abuse has been defined in various ways, and it is difficult for state law enforcement agencies and child welfare professionals to agree on a single definition. Across states, different definitions are used to legally evaluate whether or not emotional abuse has or is taking place. Utah’s definition is vague and only includes that “Harm or threatened harm means damage or threatened damage to the emotional health and welfare of a child through neglect or abuse (Child Welfare Information Gateway, 2008).” Loue (2005) asks the question, “If it cannot be defined, how can it be addressed (314)?” Creating a statute or at least a written statement that professionals can look at to see what constitutes emotional abuse might increase their likelihood of reporting it.

Based on the literature that was reviewed, the purpose of this study is to analyze how Utah compares to other states in responding to emotional child abuse in its definition, reporting, and enforcement of the state statute. My hypothesis was that because Utah’s statute appears to be vague in defining emotional abuse, it would negatively impact Utah’s court system and other child welfare agencies’ ability to respond to emotional abuse effectively.

METHODS

The data from this study come from a comparison of state statutes on child abuse, a case history of appealed cases of emotional child abuse in Utah, and eight in-depth interviews with child welfare professionals in various agencies throughout Utah. I interviewed a Detective from the Cache County Sheriff’s Office, a CPS Caseworker and Intake Worker, a Bear River Mental Health Psychologist, a Guardian Ad Litem, a Juvenile Court Judge, the Attorney General, and an Elementary School Principal.

RESULTS

State Statute Comparison

Washington and Georgia are the only states that do not have any definitions for emotional abuse or even recognize it as a part of child abuse as a whole (Child Welfare Information Gateway, 2007). 20 U.S. states have a vague statute of what constitutes emotional abuse. For example, Oklahoma says in its statute that harm or threatened harm “includes, but is not limited to, mental injury” (Child Welfare Information Gateway, 2007). An additional 20 U.S. states have a more standard definition of emotional child abuse, as demonstrated by Ohio, which defines mental injury as “any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in § 2919.22 and is committed by a parent or other person responsible for the child’s care” (Child Welfare Information Gateway, 2007). The last eight U.S. States along with Washington D.C. have the most specific definitions. California’s definition of child abuse includes “serious emotional damage,” and it goes on to define what this means. “Serious emotional damage is evidenced by states of being or behavior including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others” (Child Welfare Information Gateway, 2007).

Case History

This study was only able to have access to cases that were appealed to the Utah Court of Appeals. Cases other than appeals cannot be publicly accessed. Even so, very few cases in Utah have involved emotional child abuse. In 1990, the Court of Appeals in State in re. L.D.S. (Utah, 1990) ruled that a mother’s emotional abuse case, upheld the termination of Deanna’s parental rights under Utah’s Code, even though at this time there was nothing specific in the code about emotional abuse.

In Interest of J.M.V. (1998) and State ex rel. L.I. (2006), Utah’s Court of Appeals ruled in favor of children who had been emotionally abused, after much debate and trauma on the children. State ex rel. S.W. (2008) was a case where the Utah Court of Appeals determined that “the relationship between the mother and child was inappropriate due to yelling and screaming, name calling, and boundary issues.

Interviews

After interviewing professionals in Utah I found general trends in their responses. When I asked them to describe cases of emotional abuse they have been involved in, all of the interviewees responded that it is very rare that they get involved with a case of sole emotional abuse not tied to other forms of abuse. They gave examples of emotional abuse such as witnessing domestic violence, having a parent who is mentally ill or dealing with substance abuse, a parent threatening to hurt or kill themselves, and constant name-calling and putting the child down. Most interviewees felt that the court system was not addressing emotional child abuse as well as it could, but they concluded that there were more important problems elsewhere. Everyone did agree, however, that although the court doesn’t prosecute emotional abuse, enough therapy and/or other services are provided to help children who have been abused emotionally.

REFERENCES


