

Preventing Child Sexual Abuse in Youth Sport – Proposed Legislation Creates a New ‘Standard of Care’

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Changes in the Law

In March 2017, the United States Senate introduced [Senate Bill 534 \(S.534\)](#) aimed at preventing child sexual abuse in youth sport contexts. In May of 2017, the United States House of Representatives introduced [House Bill 1973 \(H.R.1973\)](#); virtually identical to its sister bill in the Senate, but more expansive. Both S.534 and H.R.1973 seek to broaden existing federal statutes. Though not yet law, each bill received near unanimous approval in respective chambers. It can be reasonably anticipated, therefore, that congress will pass the *Protecting Young Victims from Sexual Abuse Act of 2017* in a form incorporating the identical provisions from each bill. What follows is a brief discussion of the elements common to each bill requiring *change* in youth sport.¹

Proposed Legislative Changes

Mandatory Reporting Obligation

Both bills mandate reporting of child abuse in organizations working with amateur athletes by modifying Section 226 of the *Victims of Sexual Abuse Act of 1990* (42 U.S.C. 13031).

Both bills include a requirement that all adults working with a National Governing Body (NGB) immediately report *suspensions of abuse* to appropriate law enforcement agencies, as determined by state and federal law. Both bills extend the mandatory reporting requirement to ‘covered individuals’, interpreted broadly as *adults authorized to interact with minor or amateur athletes*.² In essence, the anticipated legislation creates a *mandatory reporting obligation* in youth sport.

Every state has a reporting statute related to child abuse and neglect; some states require *every adult* to report suspicions of abuse and neglect, other states list categories of individuals or circumstances triggering a mandatory report. The *Protecting Young Victims from Sexual Abuse Act of 2017* will create a mandatory reporting obligation for all ‘covered individuals’, defined in

¹ Both bills propose to expand access to civil courts and civil redress for sexual abuse victims through a broader interpretation of the civil discovery rule and availability of liquidated and punitive damages. This article is limited in scope to the proposed changes affecting youth sport organizations.

² See Purpose & Summary of the House Bill; H. Rep. No. 115-136 (2017-18). [Link to Highlighted Text.](#)

both bills as ‘*an adult who is authorized by a national governing body or a member of a national governing body.*’

Expansion of Authority and Responsibilities for NGBs

Both bills propose modification of Chapter 2205 of 36 United States Code related to the United States Olympic Committee and National Governing Bodies. The proposed additions of §220522(c) and §220523(a)(8) authorize NGBs to ‘*develop training, oversight practices, policies and procedures to prevent the abuse, including physical abuse and sexual abuse, of any minor or amateur athlete by an adult*’. The proposed addition of §220524(a)(10) requires NGBs to develop and enforce the policies and procedures authorized above: to *develop and enforce policies, mechanisms, and procedures to prevent abuse*.

In addition, the bills require outside accountability to ensure compliance. More specifically, §220524(a)(10)(D) requires NGBs to develop and enforce oversight procedures, *including regular and random audits, ... conducted by subject matter experts unaffiliated with the national governing body, ... to ensure that policies and procedures are followed correctly and that consistent training is offered and given to all members regarding prevention of sexual abuse ...* [ellipses added].

Clearly, the proposed legislation raises the bar in youth sport, requiring safety efforts **and** accountability from unaffiliated, outside, subject matter experts.

Is Mandatory Reporting the Solution?

The catalyst for the proposed pieces of legislation relates to recent failures to report child sexual abuse in gymnastics. Clearly, the challenges faced in gymnastics are not unique; child sexual abuse in youth sport is widespread. Creating a uniform mandatory reporting requirement has value, but this requirement, alone, does not solve the problem.

Essentially, reporting statutes require ‘if you see or suspect something – *say something*’. In many youth sport scenarios, however, the problem is not that an individual failed to ‘say something’, rather that the person failed to ‘see or suspect’. In other words, youth sport personnel must be trained to recognize and understand *suspicious behaviors*: specifically, the ‘*grooming process*’ of the sexual offender. The *grooming process* is the method utilized by an offender to gain access to a child within the offender’s age and gender of preference, groom that child for sexual interaction, then keep the child silent.

When coaches, referees, umpires and parents understand an offender’s grooming process, common grooming behaviors, and how these behaviors might manifest in youth sport – they will begin to recognize behaviors *before* a child has been sexually assaulted. In the state of Texas, a state-approved version of this training (Sexual Abuse Awareness Training), is required in various child-serving industries. Relevant training should include facts vs. misconceptions about sexual abuse and sexual abusers, abuser characteristics, the grooming process, common grooming

behaviors, peer-to-peer abuse, impact of abuse on children, reporting requirements and what to do if a child makes an outcry.³ If youth sport personnel are to recognize risk *before* a child is harmed, the required training in §220523(a)(10) must include the information described above. When all adults working with an NGB learn the *facts*, they are better equipped to protect young athletes in youth sport programs. The proposed mandatory reporting requirement mandates reporting of abuse – *after the fact*. Important? *Yes*, but prevention is the key; and prevention starts with awareness.

Standards of Care in Youth Sport

Youth sport stakeholders should be aware of these new requirements, assuming the legislation passes as expected, and respond appropriately. Though the proposed House and Senate bills specifically identify National Governing Bodies (NGBs), other sport organizations (leagues, school associations, unions, teams) should take note of the proposed legislation – some version of which will soon be law. The proposed legislation creates an industry-wide ‘standard of care’ for youth sport: a *reasonable* standard or practice for a particular activity or industry. In this instance, the proposed legislation clearly describes what is *reasonable* for youth sport programming and activities.

With the passage of these bills, all youth sport organizations are *on notice* that child sexual abuse is a real risk in youth sport, and reasonable steps should be taken to protect young athletes – including mandatory reporting, effective training, tailored policies, oversight practices and periodic safety system reviews.

As to this risk, the anticipated legislation will provide a yardstick measuring the efforts of all youth sport programs.

Summary – Change is Coming

Involvement in youth sport provides enormous benefit to young athletes. The *Protecting Young Victims from Sexual Abuse Act of 2017* will attempt to preserve those benefits by addressing the risk of child sexual abuse inherent in youth sport.

³ For sport-specific Sexual Abuse Awareness Training, contact [Abuse Prevention Systems](http://www.AbusePreventionSystems.com) to request a sample online training link.

Love & Norris, Attorneys at Law. Gregory Love and Kimberlee Norris have a nationwide sexual abuse litigation practice representing victims of sexual abuse throughout the country. In addition, Love and Norris provide consulting services to secular and ministry organizations that provide services to children. Consulting services often include safety effort evaluations, assessments and audits. Representative clients include the United States Olympic Committee, US Center for SafeSport, Awana International, Bright Horizons Daycare, Gladney Center for Adoption, and many schools, camps, non-profits and ministries.

Abuse Prevention Systems and MinistrySafe. In addition to an active law practice, Love and Norris are co-founders and Directors of **Abuse Prevention Systems** and **MinistrySafe**, entities dedicated to sexual abuse awareness and prevention. **Abuse Prevention Systems** provides Sexual Abuse Awareness Training (live and online) and assists child-serving organizations in the design and implementation of safety systems that reduce the risk of child sexual abuse. Love and Norris are frequent speakers before youth sport organizations and associations, educational entities, adoption and foster care organizations, youth camps, and other non-profits. They have addressed national and regional audiences for organizations such as USA Volleyball, US Rowing, US Youth Soccer, Tennessee State Soccer Association, Major League Lacrosse, the Risk Management Society (RIMS), Principles of Large Schools (POLs), National Council for Adoption (NCFA), American Camp Association (ACA), and the Christian Camp and Conference Association (CCCA).

Abuse Prevention Systems and **MinistrySafe** are endorsed by Philadelphia Insurance Companies, the American Camp Association and the Christian Camp and Conference Association. MinistrySafe and Abuse Prevention Systems' Sexual Abuse Awareness Training is approved by the Texas Department of State Health Services and the Departments of Insurance for Texas, New York, Pennsylvania, Washington, Oregon, California, Nebraska, Missouri, Iowa, Kansas, Oklahoma and other states. MinistrySafe's Sexual Abuse Awareness Training is an approved CEU for the Association of Christian Schools International (ACSI).

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