

Policy Brief



Modernizing Mandatory Reporting Laws for Domestic Violence in California Health Settings

November 2021; updated April 2022

History of Medical Mandatory Reporting for Adult IPV in California

California law currently mandates that health professionals treating patients with physical injuries known or suspected to have been a result of “assaultive or abusive conduct”, including domestic violence, must make a report to law enforcement.¹ This law was passed in 1994 by then-Assemblymember Jaqueline Speier, during a time when domestic violence was first starting to be recognized as a public health issue and that health providers could play a role in addressing it.² The law was also prompted by a letter from perinatal nurses in California, who expressed an interest in being able to help prevent domestic violence as health care professionals.³

Arguments in favor of medical mandated reporting for adult IPV survivors have highlighted that it could lead to an increase in domestic violence training requirements for health professionals, help identify and treat survivors, provide accountability for the person using harm, increase patients’ safety through law enforcement intervention, and provide an opportunity for patient education about domestic violence.⁴ Law enforcement professionals have also argued in favor of medical mandatory reporting for adult survivors of IPV, stating that it has helped identify people using harm and increased prosecutions.⁵ Soon after the California law was passed however, there were efforts to amend the law from experts working in the domestic violence field and a number of professional health organizations, who argued that the mandatory reporting law was putting survivors in more danger, decreased patient autonomy by bringing in law enforcement without patients’ consent, and was also resulting in health providers being more reluctant to address domestic violence with their patients.⁶

¹https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=1.&part=4.&chapter=2.&article=2

² Roan, Shari. “Law Against Domestic Abuse May Be Backfiring.” Los Angeles Times, Dec. 31, 1996.

³ Donna Mooney and Michael Rodriguez M.D., California Healthcare Workers and Mandatory Reporting of Intimate Violence, 7 Hastings Women’s L.J. 85 (1996). Available at: <https://repository.uchastings.edu/hwlj/vol7/iss1/2>

⁴ Bauer, Heidi & Mooney, D & Larkin, Hillary & O’Malley, N & Schillinger, D & Hyman, A & Rodriguez, Michael. (1999). California’s mandatory reporting of domestic violence injuries: does the law go too far or not far enough?. The Western journal of medicine. 171. 118-24.

⁵ Roan, Shari. “Law Against Domestic Abuse May Be Backfiring.” Los Angeles Times, Dec. 31, 1996.

⁶ Roan, Shari. “Law Against Domestic Abuse May Be Backfiring.” Los Angeles Times, Dec. 31, 1996.

While reporting to law enforcement for serious bodily injuries such as gunshot and knife wounds is common in most states (which may also include injuries resulting from domestic violence)⁷, California is one of only three states that currently mandates a law enforcement report for any wound or physical injury believed or known to be a result of domestic violence without the request of or consent from the patient.⁸ Around the time that the California law was enacted, several other states mandated reporting for domestic violence-related injuries: Colorado, Kentucky, New Hampshire, and Rhode Island.⁹ Since then, all four states have amended their laws to provide a more survivor-centered response to addressing intimate partner violence in health settings (see section “Case Studies: US states modernizing medical mandatory reporting laws”).

The impact of medical mandatory reporting requirements for adult IPV

The law that requires health professionals in California to file reports to law enforcement when treating patients for a domestic violence-related injury, though well-intentioned, may discourage survivors from seeking health care, discourage providers from addressing IPV with patients for fear of having to report them against their will, impair trust between patients and their healthcare providers, and may actually increase danger for those experiencing IPV.

A barrier to healthcare seeking

Experiencing IPV is correlated with increased risk of both serious injury from physical assault and sexual violence as well as long-term chronic health conditions resulting from trauma and sustained toxic stress, such as hypertension, diabetes, substance use disorder, and cancer, underscoring how important it is for survivors to receive immediate and ongoing healthcare.^{10,11,12} Yet, data show that fear of mandatory reporting to law enforcement kept IPV

⁷ Futures Without Violence, 2019. “Compendium of State and U.S. Territory Statutes and Policies on Domestic Violence and Health Care: Fourth Edition.”

<https://ipvhealth.org/wp-content/uploads/2019/09/Compendium-4th-Edition-2019-Final-small-file.pdf>

⁸ Nebraska and North Dakota are the other states which has a similar mandated reporting law for physical injuries resulting from a criminal offense. See more here: <https://ipvhealth.org/wp-content/uploads/2019/09/Compendium-4th-Edition-2019-Final-small-file.pdf>

⁹ Bauer, Heidi & Mooney, D & Larkin, Hillary & O'Malley, N & Schillinger, D & Hyman, A & Rodriguez, Michael. (1999). California's mandatory reporting of domestic violence injuries: does the law go too far or not far enough?. The Western journal of medicine. 171. 118-24.

¹⁰ Stubbs A, Szoeki C. The Effect of Intimate Partner Violence on the Physical Health and Health-Related Behaviors of Women: A Systematic Review of the Literature. Trauma Violence Abuse. 2021 Feb 5:1524838020985541. doi: 10.1177/1524838020985541. Epub ahead of print. PMID: 33541243.

¹¹ Coker AL, Smith PH, Bethea L, King MR, McKeown RE. Physical health consequences of physical and psychological intimate partner violence. Arch Fam Med 2000;9:451–457

¹² Campbell JC. Health consequences of intimate partner violence. Lancet 2002;359:1331–1336

survivors from seeking healthcare and sharing information with their healthcare providers.^{13,14} In focus groups with survivors of domestic and sexual violence, survivors were overwhelming against this practice: “It’s a life-and-death situation if going to the hospital. If asked how injured, I lied. Because of consequences if you tell the truth.”¹⁵

Antithetical to ethical healthcare best practice

The American Medical Association opposes mandatory reporting of adult intimate partner violence in healthcare settings because “such laws violate basic tenets of medical ethics.”¹⁶ Healthcare providers aim to establish trusting relationships with their patients in order to promote open communication.¹⁷ Mandatory reporting laws go against this by requiring law enforcement involvement despite what the patient and provider believe is best for the patient. Patients who experience non-consensual systems involvement through mandatory reporting of IPV in healthcare settings may be less likely to trust healthcare providers and systems in the future.¹⁸ Furthermore, mandatory reporting laws for adult IPV force healthcare providers to focus attention on their own *compliance and liability*, rather than on providing survivor-centered support and healthcare, which may explain why 59% of emergency department-based providers in California reported that they may not comply with the law if their patient did not want them to make a report.¹⁹

Decreasing safety through non-consensual systems involvement

Likewise, these laws violate domestic violence survivor empowerment models that promote safety through self-determination for people who have had their choice and power taken away by abusive partners.²⁰ According to one study of IPV survivors who called the National Domestic Violence Hotline, 50% who had experienced non-consensual systems involvement through mandatory reporting stated that it made their situations *much worse*.^{21,22}

¹³ Lippy, C., Jumarali, S.N., Nnawulezi, N.A. et al. The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change. *J Fam Viol* 35, 255–267 (2020). <https://doi.org/10.1007/s10896-019-00103-w>

¹⁴ Jordan, C. E., & Pritchard, A. J. (2018). Mandatory reporting of domestic violence: What do abuse survivors think and what variables influence those opinions? *Journal of Interpersonal Violence*. <https://doi.org/10.1177/0886260518787206>.

¹⁵ Sullivan, Cris & Hagen, Leslie. (2005). Survivors’ Opinions About Mandatory Reporting of Domestic Violence and Sexual Assault by Medical Professionals. *Affilia-journal of Women and Social Work - AFFILIA J WOMEN SOC WORK*. 20. 346-361. 10.1177/0886109905277611.

¹⁶ American Medical Association Family and Intimate Partner Violence Policy H-515.965. 2019. <https://policysearch.ama-assn.org/policyfinder/detail/Violence%20and%20Abuse?uri=%2FAMADoc%2FHOD.xml-0-4664.xml>

¹⁷ American Medical Association Code of Medical Ethics 1.1.1. <https://www.ama-assn.org/delivering-care/ethics/patient-physician-relationships>

¹⁸ M A Rodriguez, E McLoughlin, H M Bauer, V Paredes, and K Grumbach, 1999: Mandatory reporting of intimate partner violence to police: views of physicians in California.

American Journal of Public Health 89, 575_578, <https://doi.org/10.2105/AJPH.89.4.575>

¹⁹ Ibid.

²⁰ Cattaneo, Lauren & Goodman, Lisa. (2015). What Is Empowerment Anyway? A Model for Domestic Violence Practice, Research, and Evaluation. *Psychology of Violence*. 5. 84-94. 10.1037/a0035137.

²¹ National Domestic Violence Hotline, Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses. Washington, DC (2015). <http://www.thehotline.org/resources/law-enforcement-responses>

²² Lippy, C., Jumarali, S.N., Nnawulezi, N.A. et al. The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change. *J Fam Viol* 35, 255–267 (2020). <https://doi.org/10.1007/s10896-019-00103-w>

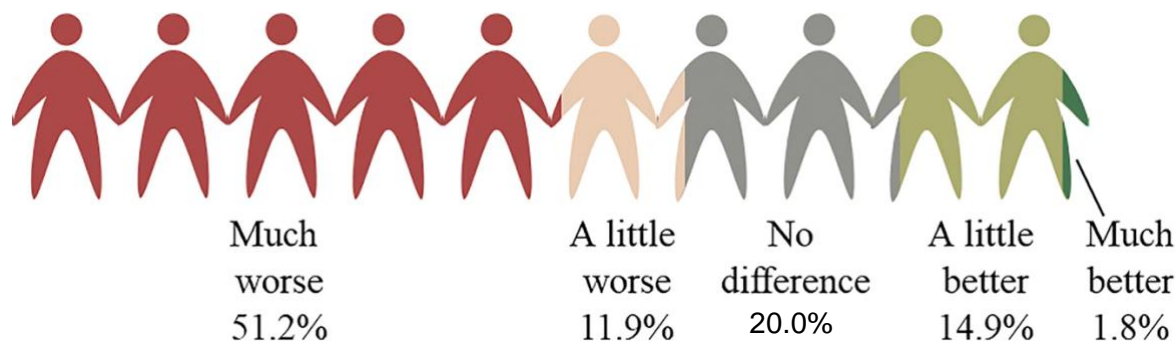


Figure 1: (Lippy, et al, 2019) *The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change*

The majority of IPV survivors choose not to engage police for many reasons, but even among survivors who had willingly engaged the police, 80% reported that it did not improve their safety, or made it worse.²³ Especially in California, where officers are required to make an arrest if they find that a domestic violence crime has occurred, survivors are at increased danger of being arrested themselves, experiencing retaliation from an abusive partner, and loss of support (childcare, income, transportation, housing, etc.) that was provided by an abusive partner. Non-consensual systems involvement is even more dangerous for LGBTQ survivors, survivors with criminal records, BIPOC survivors, and survivors with mixed-immigrations statuses in their families.²⁴ There is no data that mandated reporting of domestic violence to law enforcement increases safety for survivors.

Weakening criminal cases

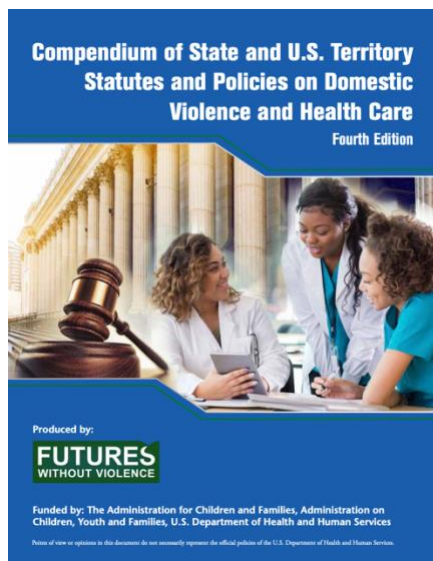
For survivors who could be interested in pursuing criminal legal options, talking to law enforcement before they are physically and emotionally ready could negatively impact their case. For example, survivors who are seeking emergency medical care for strangulation or brain injury may not have the capacity to provide accurate information to law enforcement immediately after the injury. Domestic violence advocates are specifically trained in supporting survivors on how to report to law enforcement and access the legal systems and can assist with this process in a timely way. Furthermore, law enforcement resources may be unnecessarily spread thin by requiring them to follow up on instances of mandatory reporting where survivors do not want to access criminal legal options.

²³ National Domestic Violence Hotline, *Who Will Help Me? Domestic Violence Survivors Speak Out About Law Enforcement Responses*. Washington, DC (2015). <http://www.thehotline.org/resources/law-enforcement-responses>
²⁴ Lippy, C., Jumarali, S.N., Nnawulezi, N.A. et al. *The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change*. *J Fam Viol* 35, 255–267 (2020). <https://doi.org/10.1007/s10896-019-00103-w>

Case Studies: US states modernizing medical mandatory reporting laws²⁵

California is one of the only states that still require medical mandatory reporting for treating injuries explicitly caused by domestic or sexual violence. Currently, [California's law](#) states that health care providers are required to make a report to local law enforcement if they provide medical services for a physical condition to an adult patient whom they know or reasonably suspect is suffering from any wound or other physical injury that is the result of assaultive or abusive conduct. "Assaultive and abusive conduct" covers twenty-four different acts, including "abuse of spouse or cohabitant" and sexual battery. It is important to note that changing this statute would not alter California's [Elder Abuse and Dependent Adult Civil Protection Act](#) or [Child Abuse and Neglect Reporting Act](#), which contain separate mandatory reporting requirements for those populations.

Given the ethical and safety concerns that arise with archaic medical mandated reporting laws and the disproportionate impact on marginalized survivors, California should modernize its current law. This section describes models in other states that offer more survivor-centered and trauma-informed approaches to mandated reporting for domestic violence in health settings that Californians should consider.



Resource 1: Available at [IPVhealth.org](https://www.ipvhealth.org)

States that have exceptions for domestic violence

There are four states that have medical mandatory reporting for what is defined as "criminal injuries" or serious bodily injuries and have **specific exceptions for domestic violence**. This approach recognizes that survivors are often at risk for experiencing increased violence when law enforcement intervenes. The four states that have exceptions for domestic violence are: New Hampshire, Pennsylvania, Tennessee, and Colorado.

States that Require Patients' Consent to Report

Three states require patients' consent before reporting to law enforcement. This protects survivors' decision-making by ensuring that any involvement with law enforcement will be their choice. The states that require patient consent are: Oklahoma, Pennsylvania, and Tennessee.

State that Require Survivors to be Given Information for DV programs

Kentucky, North Dakota, Washington, Colorado, and Oklahoma also **require that survivors of domestic violence be given educational information related to support services by their**

²⁵ Information in this section was adapted from: Futures Without Violence, 2019. "Compendium of State and U.S. Territory Statutes and Policies on Domestic Violence and Health Care: Fourth Edition." <https://www.ipvhealth.org/wp-content/uploads/2019/09/Compendium-4th-Edition-2019-Final-small-file.pdf>

health care provider. This approach offers a confidential resource for survivors, from advocates who are experts in safety planning and working with survivors to determine the best supports for each person. Importantly, this provides an opportunity for health providers to be able to provide referrals for their patients, without requiring law enforcement involvement.

Anonymous Data Collection

Collecting anonymous data on domestic violence in healthcare settings ensures survivors' privacy while also informing public health data and programs and population level prevention initiatives. Rhode Island mandates reporting for health care providers for any indicated or suspected cases of domestic violence as part of its Domestic Violence Prevention Act, however this data must be de-identified (including names). California should consider this option to help work towards domestic violence prevention without endangering survivors seeking healthcare.

Repealing All Mandated Medical Reporting for Adults

New Mexico law previously mandated that any adult who suspected an adult may be abused, neglected, or exploited must report it.²⁶ However, this law has since been repealed and medical professionals are no longer mandated to report any abuse, neglect, exploitation, or serious bodily injuries for adults. By repealing the law altogether, New Mexico may strengthen provider and patient relationships, which is critical for DV survivors by focusing on the health and wellbeing of the patient, not on criminal legal issues. This also ensures that any serious bodily injuries that may be reported to law enforcement (as in many other states) would not also overlap with survivors of domestic violence.

Conclusion

There is compelling evidence demonstrating that mandated medical reporting for adult survivors of domestic violence can have harmful impacts on survivors, including: being a barrier to healthcare seeking, decreasing safety through non-consensual systems involvement, eroding trust between healthcare providers and survivors, and further weakening criminal cases for survivors. Additionally, California's mandatory reporting law is antithetical to ethical healthcare best practice as outlined by the American Medical Association, by requiring non-consensual systems involvement despite what the patient and provider believe is best for the patient. Mandatory reporting laws for adult IPV focus healthcare provider attention on their own *compliance and liability*, rather than on providing survivor-centered support and healthcare. There are multiple state models that provide more trauma-informed and survivor-centered care while relying on the expertise of domestic violence advocates, that provide alternatives to mandated law enforcement involvement. California should look to these models to amend its law to better support survivors and their health.

²⁶ Hyman A, Schillinger D, Lo B. Laws mandating reporting of domestic violence. Do they promote patient well-being? JAMA. 1995 Jun 14;273(22):1781-7. PMID: 7769774.

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