

Contemporary American Law Regarding Child Protection

Major Federal Legislation Concerned With Child Protection, Child Welfare, and Adoption

1970 – Present

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P.L. 93-247

Child Abuse Prevention and Treatment Act (CAPTA) of 1974 Overview

S. 1191

Enacted January 31, 1974

Purpose: To provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect

Major Provisions of the act

- Provided assistance to States to develop child abuse and neglect identification and prevention programs
- Authorized limited government research into child abuse prevention and treatment
- Created the National Center on Child Abuse and Neglect (NCCAN) within the Department of Health, Education, and Welfare to:
 - Administer grant programs
 - Identify issues and areas needing special focus for new research and demonstration project activities
 - Serve as the focal point for the collection of information, improvement of programs, dissemination of materials, and information on best practices to States and localities
- Created the National Clearinghouse on Child Abuse and Neglect Information
- Established Basic State Grants and Demonstration Grants for training personnel and to support innovative programs aimed at preventing and treating child maltreatment

P.L. 95-266

Child Abuse Preventing and Treatment and Adoption Reform Act of 1978

Overview

H.R. 6693

Enacted April 24, 1978

Purpose: To promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, and to extend and improve the provisions of the Child Abuse Prevention and Treatment Act (CAPTA)

Major Provisions of the Act

- Required the National Center on Child Abuse and Neglect (NCCAN) to:
 - Develop a comprehensive plan for facilitating the coordination of activities among agencies
 - Establish research priorities for making grants
 - Set aside funds to establish center for the prevention, identification, and treatment of child sexual abuse
- Established the Adoption Opportunities Program to:
 - Facilitate placement of children with special needs in permanent adoptive homes
 - Promote quality standards for adoptive placement and the rights of adopted children
 - Provide for a national adoption information exchange system
- Provided for annual summaries of research on child abuse and neglect

P.L. 104-235

Child Abuse Prevention and Treatment Amendments of 1996 Overview

S. 919

Enacted October 3, 1996

Purpose: To modify and reauthorize the Child Abuse Prevention and Treatment Act (CAPTA)

Major Provisions of the act

- Reauthorized CAPTA through FY 2001
- Abolished the National Center on Child Abuse and Neglect (NCCAN) and created the Office on Child Abuse and Neglect
- Added new requirements to address the problems of false reports of abuse and neglect, delays in termination of parental rights, and lack of public oversight of child protection
- Required States to institute an expedited termination of parental rights process for abandoned infants or when the parent is responsible for the death or serious bodily injury of a child
- Set the minimum definition of child abuse to include death, serious physical or emotional injury, sexual abuse, or imminent risk of harm
- Recognized the right of parental exercise of religious beliefs concerning medical care

- Continued the Community-Based Family Resource and Support Grants Program, the Adoption Opportunities Act, Abandoned Infants Assistance Act, Victims of Child Abuse Act, Children’s Justice Act Grants, and the Missing Children’s Assistance Act
- Provided for Federal grants for the establishment of not less than three citizen review panels in each State, such as child fatality panels or foster care review panels, for the purpose of examining the policies and procedures of State and local agencies and, where appropriate, specific cases, to evaluate the extent to which the agencies are effectively discharging their child protection responsibilities, including:
 - A review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under title IV-E
 - A review of child fatalities and near fatalities

P.L. 108-36 Keeping Children and Families Safe Act of 2003 Overview

S. 342

Enacted June 25, 2003

Purpose: To amend and improve the Child Abuse Prevention and Treatment Act (CAPTA), the Adoption Opportunities Act, the Abandoned Infants Assistance Act, and the Family Violence Prevention and Services Act

Major Provisions of the act

- Reauthorized CAPTA through FY 2008
- Authorized an expanded continuing interdisciplinary and longitudinal research program; provided for an opportunity for public comment on research priorities
- Emphasized enhanced linkages between child protective service (CPS) agencies and public health, mental health, and developmental disabilities agencies
- Mandated changes to State plan eligibility requirements for the CAPTA State grant, including:
 - Policies and procedures to address the needs of infants born and identified as being affected by prenatal drug exposure
 - Provisions and procedures requiring that a CPS representative at the initial contact advise an individual of complaints and allegations made against him or her
 - Provisions addressing the training of CPS workers regarding their legal duties in order to protect the legal rights and safety of children and families
 - Provisions to require a State to disclose confidential information to any Federal, State, or local government entity with a need for such information
 - Provisions and procedures for referral of a child under age 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under part C of the Individuals with Disabilities Education Act
- Directed the Secretary to provide for implementation of programs to increase the number of older foster children placed in adoptive families, including a grants program to eliminate barriers to placing children for adoption across jurisdictional boundaries
Amended the Abandoned Infants Assistance grants program to prohibit grants unless the applicant agrees to give priority to infants and young children who:

- Are infected with or exposed to the human immunodeficiency virus (HIV) or have a life-threatening illness
- Have been perinatally exposed to a dangerous drug

P.L. 111-320 CAPTA Reauthorization Act of 2010 Overview

S. 3817

Enacted December 20, 2010

Purpose: To amend and reauthorize the Child Abuse Prevention and Treatment Act (CAPTA), the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988, and for other purposes.

Note: Children’s Bureau offers guidance on the provisions of this legislation in Information Memorandum ACYF-CB-IM-11-02, issued February, 15, 2011

Major Provisions of the act

- Amended the State plan eligibility provisions to require submission of a plan that will remain in effect for the duration of the State’s participation in the program, with States required to:
 - Periodically review and revise the plan to reflect any changes in State programs
 - Provide notice to the U.S. Department of Health and Human Services (HHS) of any substantive changes related to child abuse prevention that may affect the State’s eligibility for the grant program
 - Provide notice to HHS of any significant changes in how the State is using grant funds
 - Prepare and submit to HHS an annual report describing how CAPTA funds were used
- Directed the Secretary of HHS to complete studies and reports to Congress on:
 - Shaken baby syndrome
 - Efforts to coordinate the objectives and activities of agencies and organizations responsible for programs and activities related to child abuse and neglect
 - The effectiveness of citizen review panels in examining State and local child protection agencies and evaluating the extent to which they fulfill their child protection responsibilities
 - How provisions for immunity from prosecution under State and local laws and regulations facilitate and inhibit individuals cooperating, consulting, or assisting in making good faith reports of child abuse or neglect
- Authorized grants to public or private agencies and organizations to develop or expand effective collaborations between child protective service (CPS) entities and domestic violence service entities to improve:
 - Collaborative investigation and intervention procedures
 - Provision for the safety of the non-abusing parent and children

- Provision of services to children exposed to domestic violence that also support the care-giving role of the non-abusing parent
- Amended the requirements for State plan assurances to include laws, policies, or programs for:
 - Identifying categories of mandated reporters
 - Including fetal alcohol spectrum disorders in procedures for referral and development of a plan of safe care for substance-exposed newborns
 - Including differential response in screening and assessment procedures
 - Requiring that guardians ad litem be trained in early childhood, child, and adolescent development
 - Providing that reunification not be required when a parent has committed intrafamilial sexual abuse or must register with a sex offender registry
 - Ensuring the provision of technology to track CPS reports from intake through final disposition
 - Encouraging the appropriate involvement of families in decision-making
 - Promoting and enhancing collaboration among child protective, substance abuse, and domestic violence agencies
 - Requiring training and programs that address the needs of unaccompanied homeless youth
 - Ensuring collaboration with community-based prevention programs and families affected by child abuse and neglect in the development of the State plan
 - Ensuring that the State, to the maximum extent possible, has coordinated its CAPTA State plan with its title IV-B State plan
- Required additional data in the annual State data reports, including:
 - The number of families that received differential response as a preventive service
 - Caseload requirements and the average caseload for CPS workers
 - The education, qualifications, and training requirements for CPS personnel
 - The number of children referred to CPS under policies established to address the needs of infants born affected by illegal substance abuse or fetal alcohol spectrum disorder
 - The number of children under age 3 involved in a substantiated case of child abuse or neglect who were eligible for referral to agencies providing early intervention services and the number of those children who were actually referred
- Reauthorized the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, including appropriations, through FY 2015. Amendments to the act required:
 - Efforts to promote the adoption of older children, minority children, and children with special needs
 - Recruitment of prospective adoptive families for children in foster care, including developing and using procedures to notify family and relatives when a child enters the child welfare system
- Authorized grants to States for improving efforts to increase the placement of foster care children legally free for adoption. Required that grant applications describe:
 - How the State plans to improve the placement rate of children in permanent homes

- The methods the State, prior to submitting the application, has used to improve the placement of older children, minority children, and children with special needs, who are legally free for adoption
- The State's evaluation plan for determining the effectiveness of programs and methods of placement
- How the State plans to coordinate activities under this subsection with relevant activities under 42 U.S.C.

P.L. 95-608 Indian Child Welfare Act (ICWA) of 1978 Overview

S. 1214

Enacted November 11, 1978

Purpose: To establish standards for the placement of Indian children in foster and adoptive homes and to prevent the breakup of Indian families

Major Provisions of the act

- Established minimum Federal standards for the removal of Indian children from their families
- Required Indian children to be placed in foster or adoptive homes that reflect Indian culture
- Provided for assistance to Tribes in the operation of child and family service programs
- Created exclusive Tribal jurisdiction over all Indian child custody proceedings when requested by the Tribe, parent, or Indian "custodian"
- Granted preference to Indian family environments in adoptive or foster care placement
- Provided funds to Tribes or nonprofit off-reservation Indian organizations or multiservice centers for the purpose of improving child welfare services to Indian children and families
- Required State and Federal courts to give full faith and credit to Tribal court decrees
- Set standard of proof for terminating Indian parents' parental rights that required the proof to be beyond a reasonable doubt

P.L. 96-272 Adoption Assistance and Child Welfare Act of 1980 Overview

H.R. 3434

Enacted June 17, 1980

Purpose: To establish a program of adoption assistance; strengthen the program of foster care assistance for needy and dependent children; and improve the child welfare, social services, and aid to families with dependent children programs

This act amended titles IV-B and XX of the Social Security Act.

Major Provisions of the act

- Required States to make adoption assistance payments, which take into account the circumstances of the adopting parents and the child, to parents who adopt a child who is Aid to Families with Dependent Children (AFDC)-eligible and is a child with special needs
- Defined a child with special needs as a child who:
 - Cannot be returned to the parent's home
 - Has a special condition such that the child cannot be placed without providing assistance
 - Has not been able to be placed without assistance
- Required, as a condition of receiving Federal foster care matching funds, that States make "reasonable efforts" to prevent removal of the child from the home and return those who have been removed as soon as possible
- Required participating States to establish reunification and preventive programs for all in foster care
- Required the State to place a child in the least restrictive setting and, if the child will benefit, one that is close to the parent's home
- Required the court or agency to review the status of a child in any nonpermanent setting every 6 months to determine what is in the best interest of the child, with most emphasis placed on returning the child home as soon as possible
- Required the court or administrative body to determine the child's future status, whether it is a return to parents, adoption, or continued foster care, within 18 months after initial placement into foster care

P.L. 103-382 Multiethnic Placement Act of 1994 Overview

H.R. 6

Enacted October 20, 1994 These provisions were enacted as title V, part E, subpart 1, of the Improving America's Schools Act of 1994.

This title amended Title IV-E of the Social Security Act.

Major Provisions of the act

- Prohibited State agencies and other entities that receive Federal funding and were involved in foster care or adoption placements from delaying, denying, or otherwise discriminating when making a foster care or adoption placement decision on the basis of the parent or child's race, color, or national origin
- Prohibited State agencies and other entities that received Federal funds and were involved in foster care or adoption placements from categorically denying any person the opportunity to become a foster or adoptive parent solely on the basis of race, color, or national origin of the parent or the child
- Required States to develop plans for the recruitment of foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom families are needed

- Allowed an agency or entity to consider the cultural, ethnic, or racial background of a child and the capacity of an adoptive or foster parent to meet the needs of a child with that background when making a placement
- Had no effect on the provisions of the Indian Child Welfare Act of 1978
Made failure to comply with MEPA a violation of title VI of the Civil Rights Act

P.L. 105-89 Adoption and Safe Families Act of 1997 Overview

H.R. 867

Enacted November 19, 1997

Purpose: To promote the adoption of children in foster care

This act amended title IV-E of the Social Security Act.

Major Provisions of the act

- Reauthorized the Family Preservation and Support Services Program:
 - Renamed it the Safe and Stable Families Program
 - Extended categories of services to include time-limited reunification services and adoption promotion and support services
- Ensured safety for abused and neglected children:
 - Ensured health and safety concerns are addressed when a State determines placement for abused and neglected children
 - Required the U.S. Department of Health and Human Services (HHS) to report on the scope of substance abuse in the child welfare population and the outcomes of services provided to that population
 - Added “safety of the child” to every step of the case plan and review process
 - Required criminal records checks for foster/adoptive parents who receive Federal funds on behalf of a child, unless a State opted out of this requirement
- Accelerated permanent placement:
 - Required States to initiate court proceedings to free a child for adoption once that child had been waiting in foster care for at least 15 of the most recent 22 months, unless there was an exception
 - Allowed children to be freed for adoption more quickly in extreme cases
- Promoted adoptions:
 - Rewarded States that increased adoptions with incentive funds
 - Required States to use reasonable efforts to move eligible foster care children towards permanent placement
 - Promoted adoptions of all special needs children and ensured health coverage for adopted special needs children
 - Prohibited States from delaying /denying placements of children based on the geographic location of the prospective adoptive families
 - Required State to document and report child-specific adoption efforts
- Increased accountability:
 - Required HHS to establish new outcome measures to monitor and improve State performance

- Required States to document child-specific efforts to move children into adoptive homes
- Clarified “reasonable efforts”:
 - Emphasized children’s health and safety
 - Required State to specify situations when services to prevent foster placement and reunification of families are not required
- Required shorter time limits for making decisions about permanent placements:
 - Required permanency hearing to be held no later than 12 months after entering foster care
 - Required States to initiate termination of parental rights proceedings after the child has been in foster care 15 of the previous 22 months, except if not in the best interest of the child, or if the child is in the care of a relative

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