

Federal Laws Impacting Child Protection Proceedings

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2008- Fostering Connection to Success and Increasing Adoptions Act (P.L. 110-351)

- Requires Child Protective Services (CPS) to exercise “due diligence” in informing a child’s grandparents and other adult relatives of their placement in foster care within 30 days
- Expands Title IV-E funding allowances:
 - Allows for foster assistance payments to relative foster parents
 - Extends foster assistance payments for youth up to age 21 (2010) – if engaged in identified activity (Employment, education, disability, etc)
 - Allows adoption assistance funding to support permanency through relative guardianships (allows child to maintain categorical eligibility for Medicaid)
 - Provides \$2000.00 reimbursement for legal fees and filing fees to establish guardianship
 - Expands eligibility for Title IV-E training funds
- Requires CW to make “reasonable efforts” to place sibling groups together or to maintain their ongoing contact
- Creates grant funding for:
 - Kinship Navigator Programs, intensive family-finding services, family group decision making, residential family-based substance abuse treatment
- Provides additional federal resources for adoption of older children and special needs children
- Requires CW to coordinate with state’s Medicaid agency, pediatricians, and other experts to develop a healthcare plan for foster children
 - Plan to include; a schedule for initial and follow up care, identification of how medical needs will be treated and monitored, how medical information will be updated, steps to ensuring continuity of care, oversight of prescription medications, and plan for actively involving medical professionals in the development of plan
- Requires CW to include a plan to ensure the educational stability of a child entering foster care (Funding to accommodate)
 - Considerations include; child’s ties to their school, appropriateness of academic program, distance of commute, personal safety of student, service capacity of the school, anticipated length of placement
 - Conditions Title IV-E reimbursement on proof school age child is attending school
- Allows Indian tribes to receive direct federal funds for programs to operated by Indian organizations
- Mandates that potential adoptive parents are informed of federal adoption tax incentives

2006- Children and Family Services Improvement Act (P.L. 109-288)

- Reauthorizes the Promoting Safe and Stable Families Program
- Creates standards for the content and frequency of caseworker visits for children in foster care. (face to face visit every 30 days, must advance specific safety objective)
- Provides grants to improve well-being and permanency outcomes with children impacted by methamphetamine
- Requires age/developmentally-appropriate child consultation for permanency hearings (younger children through CASA)

2006- Adam Walsh Child Protection and Safety Act (P.L. 109-248)

- Requires fingerprint-based criminal record checks of national crime information data bases for all prospective foster and adoptive parents and checks of state child abuse and neglect registries
- Requires interstate compliance with request of abuse registry checks

2006- Safe and Timely Interstate Placement of Foster Children Act (P.L. 109-239)

- Requires each title IV-E state plan for foster care and adoption assistance to provide that the state shall:
 - Have in effect procedures for orderly and timely interstate placement of children
 - Complete home studies requested by another state within a specified period, which is 60 days in most cases but up to 75 days if specified circumstances warrant an extension
 - Accept such studies received from another state within 14 days unless reliance on the report would be contrary to the child's welfare

2005- Deficit Reduction Act (P.L. 109-171)

- Requires applications for Court Improvement Grants, including grants for improved data collection and training to:
 - Ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner
 - Provide for the training of judges, attorneys, and other legal personnel in child welfare cases
 - Required that courts and agencies demonstrate meaningful collaboration in child welfare services programs
 - Permitted states to allow public access to certain state court child welfare proceedings

2005- Fair Access to Foster Care (P.L. 109-113)

- Allows Title IV-E funding to be used in for-profit foster placements

2003- Keeping Children and Families Safe Act (P.L. 108-36)

- Reauthorizes and amends Child Abuse Prevention and Treatment Act (CAPTA)
- Mandates that to receive CAPTA funding states must have a policies and procedures in place:
 - To address the needs of infants born and identified as being affected by prenatal drug and/or alcohol exposure
 - To ensure the CPS representative at the initial contact advise an individual of complaints and allegations made against him or her
 - To train CPS workers regarding their legal duties in order to protect the legal rights and safety of children and families
 - To disclose confidential information to any federal, state, or local government entity with a need for such information
 - To refer 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
 - 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

2003- Adoption Promotion Act (P.L. 108-145)

- Reauthorizes Adoption and Safe Families Act of 1997
- Provides federal funding for the adoption of older (over age 9)and special needs children (primarily state incentive)

2001- Promoting Safe and Stable Families Amendment (P.L. 107-133)

- Amends the definition of family preservation services to include infant safe haven programs
- Adds strengthening parental relationships and promoting healthy marriages to the list of allowable activities
- Adds new focus on research, evaluation, and technical assistance activities
- Creates a matching grant program to support mentoring networks for children of prisoners
- Reauthorizes funds for the Court Improvement Program
- Authorizes a voucher program as part of the John H. Chafee Foster Care Independence Program to provide for education and training, including postsecondary training and education, to youth who have aged out of foster care

2001 - No Child Left Behind Act and McKinney-Vento Homeless Education Assistance Improvements Act (P.L. 107-110)

- Requires state educational agencies to ensure that each homeless child has equal access to the same free, appropriate public education as other children
- Interpreted to include child awaiting foster care placement

2000- Intercountry Adoption Act (Treaty implementing statute) (P.L. 106-279)

- Provides for implementation by the United States of the Hague Convention on Protection of Children and Cooperation (1993) in Respect of Intercountry Adoption, and for other purposes.
- Standardizes findings for intercountry adoptions practices

2000 – Strengthening Abuse and Neglect Courts Act (P.L. 106-314)

- Grants to improve administrative efficiency and effectiveness of child abuse and neglect courts, directed primarily at establishing data collection and evaluation systems to facilitate implementation of Adoption and Safe Families Act

2000 -Child Abuse Prevention and Enforcement Act (P.L. 106-177)

- Authorized Federal funds to states to improve criminal justice systems in order to provide timely, accurate, and complete criminal history information to child welfare agencies and other entities involved in child protection
- Allowed the use of Federal grants by law enforcement:
 - To enforce child abuse and neglect laws, including laws against child sexual abuse
 - To promote child abuse prevention programs
 - To establish or support cooperative programs between law enforcement and media organizations to collect, record, retain, and disseminate information useful in the identification and apprehension of suspected criminal offenders

1999- Foster Care Independence Act (John H. Chafee Foster Care Independence Program) (P.L. 106-169)

- Authorizes funding for independent living programs providing education, training, and employment services, and financial support for foster youth to prepare for living on their own (18-21 yrs old)
- Emphasizes permanency by requiring that efforts to find a permanent placement continue concurrently with independent living activities

1997- Adoption and Safe Families Act (ASFA) (P.L. 105-89)

- Reauthorizes and amends Adoption Assistance and Child Welfare Act of 1980
- Clarifies definition of “reasonable efforts,” requiring states to
 - maintain the family unit and prevent unnecessary removal of a child if safely possible
 - effect a safe reunification of the child
 - make finalized permanency plans in a timely manner when reunification is not possible
- Requires shorter time limits for making case decisions
 - Jurisdictional hearing within 60 days of entering care
 - Permanency hearing to be held no later than 12 months after jurisdiction is established or 14 months after child has entered care
 - Required initiation of TPR proceedings when child has been in care 15 of 22 months – except if not in child’s best interest, or when in relative care
- Creates funding for reunification services and placement prevention services (family support)
- Requires reporting on the substance abuse in the child welfare population, and the outcomes of services provided to that population
- Renews funding for Court Improvement Programs
- Requires states to use “reasonable efforts to move eligible foster care children toward permanency”
- Prohibits states from delaying/denying placements of children based on geographic location of the perspective adoptive family
- Requires documentation of child specific adoption efforts (Concurrent Plan)
- Accelerates permanent placement:
 - Requires 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

1997- Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)

- Requires state courts to enforce valid child-custody and visitation determinations made by other state courts.
- Defined a child’s “home state” as the state in which the child has lived for the last 6 months prior to the court action and grants priority to that state in a range of proceedings in which custody is at issue.

1996- Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191)

- Regulates the disclosure of “healthcare and related” information
- Requires that child welfare service provider comply with provisions of HIPAA concerning the release and use of family medical informatio

1996- Child Abuse Prevention and Treatment Amendments (P.L. 104-235)

- Reauthorizes and amends Child Abuse Prevention and Treatment Act
- Abolishes the National Center on Child Abuse and Neglect and created the Office on Child Abuse and Neglect
- Adds 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
- Requires 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
- Sets the minimum definition of child abuse to include death, serious physical or emotional injury, sexual abuse, or imminent risk of harm
- Recognizes the right of parental exercise of religious beliefs concerning medical care
- Continues 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

1996- The Removal of Barriers to Interethnic Placement Provisions (P.L. 104-188)

- Amends Multi-Ethnic Placement Act of 1994
- Establishes that states and other entities receiving Title IV-E funds cannot deny nor delay foster or adoptive parents the opportunity to care for a child based upon race, color or national origin

1994- Multiethnic Placement Act (MEPA) (P.L. 103-382)

- Prohibits state agencies and other entities 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
- Requires 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
- Allows 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
- Makes failure to comply with MEPA a violation of title VI of the Civil Rights Act

1993- Family Preservation and Support Services Act (P.L. 103-66)

- Encourages states to use federal funds to create a continuum of family-focused services for “at-risk” children and families
- Encourages states to improve service coordination within and across state service agencies
- Allows Title IV-E funds to be used for preservation services including:
 - Activities designed to assist families in crisis
 - Activities directed at preventing out-of-home placements due to abuse and/or neglect
- Provides support services including - preventive activities, typically provided by community-based organizations, designed to improve nurturing of children and strengthen and enhance stability of families
- Broadened definition of “family” to include biological, adoptive, foster, extended or self-defined
- Funds Court Improvement Program Grant

1992- Child Abuse, Domestic Violence, Adoption, and Family Services Act (P.L. 102-295)

- Amends and reauthorizes Child Abuse Prevention and Treatment Act
- Provides state incentives to improving community-based efforts to reduce child abuse and neglect

1990- Individuals with Disabilities Education Act (IDEA) (P.L. 94-142)

- Requires Individual Educational Plans (IEP’s) for children with enumerated disabilities (Age 3-21)

1988- Child Abuse Prevention, Adoption, and Family Services Act (P.L. 100-294)

- Amends Child Abuse Prevention and Treatment Act
- Establishes the Inter-Agency Task Force on Child Abuse and Neglect, with responsibility for programs and activities related to child abuse and neglect
- Broadens the scope of research to include investigative and judicial procedures applicable to child abuse cases and the national incidence of child abuse and neglect
- Establishes a national data collection system to include standardized data on false, unfounded, or unsubstantiated cases and the number of deaths due to child abuse and neglect
- Expands the Adoption Opportunities program:
 - To increase the number of minority children placed in adoptive families, with an emphasis on recruitment of and placement with minority families
 - To provide for post-legal adoption services for families who have adopted special needs children
 - To increase the placement of foster care children legally free for adoption

1984- Child Abuse Amendments (P.L. 98-457)

- Amends Child Abuse Prevention and Treatment Act
- Requires states to have in place procedures with state protective systems to respond to the reporting of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions
- Requires state-level programs to facilitate adoption opportunities for disabled infants with life-threatening conditions
- Provides for the establishment and operation of a federal adoption and foster care data-gathering and analysis system
- Provides for a national adoption exchange to match special needs children with prospective adoptive families

1980- Adoption Assistance and Child Welfare Act (P.L. 96-272)

- Establishes Title IV-E of the Social Security Act
- Requires, 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
- Requires 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
- Created federal adoptions assistance payments, to parents who adopt a child who is 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
- Requires states to establish reunification and preventive programs for all children in foster care
- Requires 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
- Establishes Adoption Assistance Program

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

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

1978- Child Abuse Prevention and Treatment and Adoption Reform Act (P.L. 95-266)

- Requires 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 centers for the prevention, identification, and treatment of child sexual abuse
- Establishes 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 national adoption information exchange system
- Provides for annual summaries of research on child abuse and neglect

1974- Child Abuse Prevention and Treatment Act (CAPTA) (P.L. 93-247)

- Links receipt of federal IV-B (Now primarily IV-E) funds to federal child protection conditions
- Provides assistance to states to develop child abuse and neglect identification and prevention programs
- Authorizes limited government research into child abuse prevention and treatment
- Creates 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
 - Create the National Clearinghouse on Child Abuse and Neglect Information
- Establishes Basic State Grants and Demonstration Grants for training personnel and to support innovative programs aimed at preventing and treating child maltreatment

1974- Family Education Rights Privacy Act (P.L. 93-380)

- Establishes release requirements for child educational records, mandating parental consent. (Defined parent as guardian, or an individual acting as a parent absent a parent or guardian)